CANADIAN HUMAN RIGHTS COMMISSION
COMMISSION CANADIENNE DES DROITS DE LA PERSONNE

The Evolution of Human Rights in Canada

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Summary

How have Canadians' ideas of human rights evolved over time? Change begins when someone believes that they are being treated unfairly, and then decides to take action. The following report traces the emergence of human rights as the primary language for social change in Canada. It documents the rights revolution in Canada, and how it transformed social movements, politics, law, and foreign policy. Canadians began to engage with the principles of human rights long before the 1970s, but it was only in this period when human rights became pervasive and systemic. Canadians established one of the most sophisticated human rights legal regimes in the world; largely abandoned the principle of Parliamentary supremacy; produced a unique human rights movement; and became one of the first countries to advance human rights as a cornerstone of international politics.

The focus in this report is on social movements, political debates surrounding the constitution, human rights law, and foreign policy as evidence of Canadians' evolving human rights ideals. Sections two through four document the rights revolution from the 1940s to the 1970s, with a focus on the shift from civil liberties to human rights. The foundation for how Canadians define human rights today was established in the 1970s. Sections five and six address the legacy of the rights revolution, and how Canadians' ideas of rights have continued to evolve even when the law and politics have remained static. In particular, these sections draw on surveys of the media, opinion polls, and social movements to document emerging rights claims. A central theme in the report is that human rights are always contested, but human rights also contain an inner logic that invariably leads to new rights claims that build upon existing recognized rights.

In the 1940s and 1950s, Canadians largely defined rights as civil liberties, which meant fundamental freedoms: speech, association, assembly, religion, press, due process and voting. Rhetoric surrounding discrimination was largely confined to racial, religious and ethnic discrimination. Today, the language of rights has been appropriated to apply to a remarkable range of issues. Discrimination is banned in Canadian human rights law on the basis of race, religion, colour, creed, sex (sexual harassment, pregnancy), age, place of origin, nationality, physical and mental disability, marital status, pardoned conviction, sexual orientation, family status and others. The rights of Aboriginal peoples, ethnic and linguistic minorities are constitutionally protected. Moreover, it is not uncommon to hear Canadians speak today of clean water, gender identity, genetic equality, access to the internet or natural resources as human rights. The rights revolution has taken on a life of its own, and there is no limit to how it might develop in the future.

1. Introduction

What are human rights? Human rights are the rights one has simply by virtue of being human. They are the "highest moral rights, they regulate the fundamental structures and practices of political life, and in ordinary circumstances they take priority over other moral, legal, and political claims."[1] A right must be recognized by other people to exist, and must be secured through human action. It is an entitlement premised on a widely held set of beliefs about the nature of the entitlement; even if it is not recognized in law, a right emerges from a moral or ideological belief.[2] Human rights are grounded on the presumption of the equal worth and dignity of all human beings. In addition to the right to life and human dignity, freedom to decide and determine one's own destiny as well as equality of opportunity are elemental human rights principles. These principles are not absolute, but they are universal, inalienable, and exist prior to law.[3]

"Human rights" is a malleable discourse that evolves and adapts. It is, as E.J. Hobsbawn suggests, the natural language of politics because "it provides a built-in moral backing for any demand or action."[4] Martha Minow argues that rights discourse has the potential to constrain those with power by exposing and challenging hierarchies of power.[5] People outside the hegemonic classes, according to Miriam Smith, can politicize their grievances and gain recognition from mainstream members of society by framing their demands in the language of rights. Gary Teeple insists that if human rights organizations defended social rights with as much vigour as civil rights, they would invariably raise questions about social and economic inequalities.[6] Of course, rights discourse is not the sole preserve of the marginalized. All citizens use the rhetoric of

rights to advance claims against public and private agencies. And yet human rights have the greatest transformative potential for those who lack power.

Since Canada's rights revolution in the 1970s, the distinction between human rights and civil liberties has come to reflect profound ideological disagreements surrounding the validity of rights claims. When a federation of non-governmental organizations (NGOs) was formed in 1972 to promote rights, the members believed that the distinction was significant enough to burden the organization with a cumbersome title: the Canadian Federation of Civil Liberties and Human Rights Associations.[7] Canada's rights culture traditionally associates *civil liberties* with a narrow conception of rights as limited to civil and political rights. One way of explaining this divergence is to distinguish between negative and positive freedom.[8] When civil liberties activists argue that people must be free from restraint to carry out their desires, these activists are articulating a conception of liberty based on *negative* freedom. Civil libertarians abhor unnecessary restrictions on individuals in their pursuit of the good life, such as limits on the press, religion, association, assembly or speech. In contrast, human rights activists have forwarded a more robust definition of freedom that includes positive freedom. An advocate for *positive* freedom seeks to ensure an individual's capacity to formulate their desires and goals. Positive freedom, as Jerome Bickenback argues, is premised on the individual's ability to bring about what he or she desires: "Lack of training, accommodation of needs, or realistic opportunities are also restrictions … Since the importance of negative freedom presumes one's abilities to do or become something, if one so chooses, the value of negative freedom must be derivative from positive freedom."[9]

Human rights are a powerful force because the source of human rights lies not in the law but in human morality.[10] A society with a strong rights culture allows individuals to make rights claims even though, at the time, they are not recognized by the state or civil society. Canada's rights culture has evolved from simply prohibiting overt acts of discrimination to ensuring substantive equality.[11] By the 1980s, Canadians increasingly considered access to education and health care as rights. In many ways, the pillars of the welfare state, from employment insurance to workers compensation, were as much a demonstration of Canada's rights culture as the right to vote or due process. Rights discourse provides people with a legitimate tool to advance their claims in ways that are not easily ignored. Gays and lesbians, for example, have successfully employed human rights to challenge the power of the sexual majority to define what is normal.[12]

The following report traces the evolution and emergence of human rights as the primary language for social change in Canada. Human rights claims begin when someone – or a group of people – perceives something to be unfair. Until the mid-twentieth century, Canadians' ideas of rights were firmly rooted in the British tradition of civil liberties. It would take a rights revolution in the 1970s before Canadians fully embraced human rights. This report documents the evolution of the language of human rights in Canada, and how it transformed social movements, politics, law, and foreign policy. Canadians began to engage with the principles of human rights long before the 1970s, but it was only in this period when human rights became pervasive and systemic. Canadians established one of the most sophisticated human rights legal regimes in the world; largely abandoned the principle of Parliamentary supremacy and embraced the *Charter of Rights*

and Freedoms[13]; produced a unique human rights movement; and became one of the first countries to advance human rights as a cornerstone of international politics.

The focus in this report is on social movements, political debates surrounding the constitution, human rights law, and foreign policy as evidence of Canadians' evolving human rights ideals. Sections two through four document the rights revolution from the 1940s to the 1970s, with a focus on the shift from civil liberties to human rights. The foundation for how Canadians define human rights today was established in the 1970s. Sections five and six address the legacy of the rights revolution, and how Canadians' ideas of rights have continued to evolve even when the law and politics have remained static. In particular, these sections draw on surveys of the media, opinion polls, and social movements to document emerging rights claims. A central theme in the report is that human rights are always contested, but human rights also contain an inner logic that invariably leads to new rights claims that build upon existing recognized rights.

2. 1944 to 1962: Civil Liberties in Canada

The Second World War (WWII) was a traumatic event for rights. The Defence of Canada Regulations, according to Ramsay Cook, "represented the most serious restrictions upon the civil liberties of Canadians since Confederation."[14] Canada was among the world's least hospitable destinations for Jewish refugees during the conflict, allowing barely 5,000 to enter during the course of the war. Blacks and other minorities who sought to enlist were rejected by recruiting centres. Thousands of Canadian citizens of Japanese descent were interned, expelled from the west coast and later deported to Japan in the aftermath of the war. It was a fact of daily life in Canada that everyone did not enjoy the same rights. Immigration policies were explicitly racist until 1962, and restrictive covenants (e.g., restrictions on the ethnic, racial, or religious mix in a neighbourhood) were common. Women did not get the vote in Quebec until 1940, and several minority groups, including Aboriginal peoples, were denied the right to vote until well after the war. Without the right to vote, individuals could not hold public office or serve on a jury. Minorities were regularly denied licences to operate businesses. Anti-Semitism, segregation amongst Blacks and Whites in Nova Scotia and Southern Ontario schools, limited economic opportunities for women, and widespread discrimination against Aboriginal peoples was a basic reality of life in Canada.[15] And yet, in this context, the first anti-discrimination law in Canada was passed. Ontario's 1944 *Racial Discrimination Act* prohibited the display of discriminatory signs and advertisements.[16]

The pioneering legislation was a small step at a time when even the most fundamental rights were not sacred. Two years later, in 1946, a Soviet defector name Igor

Gouzenko shared information on the existence of a Soviet spy ring operating in Canada. The federal cabinet responded with the *War Measures Act* in peacetime, and was able to detain dozens of *suspected* spies, hold them incommunicado in tiny cells under suicide watch, and subject them to repeated interrogations by the police and a royal commission. Their "testimony" was later used in court to convict the spies after the commission had effectively circumscribed all rights to due process. One of the detainees, Emma Woikin, was so traumatized by her incarceration that, when she was finally brought before a judge, all she could do was repeat over and over again, in a flat and unnatural tone, "I did it."[17] The event launched a national debate in Canada, and led to the formation of a half dozen civil liberties associations.[18]

What is most notable about postwar public discourse in Canada is that the term "human rights" was rarely employed.[19] During the debates surrounding the Gouzenko Affair in 1946 the term "human rights" almost never appeared in the print media or in Parliament. Instead, Canadians were possessed of civil liberties, and popular discourse was often rooted in references to traditional British liberties. Saskatchewan passed a provincial Bill of Rights in 1947, which was only the second anti-discrimination law in Canadian history. The statute, however, was narrowly construed. It recognized the traditional British liberties of speech, assembly, religion, association, and due process, while, at the same time, prohibiting discrimination solely on the basis of race, religion, and national origin.[20] The term "human rights" had yet to gain popular currency in Canada.

The Saskatchewan legislation, as well as the Universal Declaration of Human Rights in 1948, inspired the federal government to initiate Parliamentary hearings in

1947, 1948 and 1950 into the possibility of a national bill of rights. The hearings offer some insight into how Canadians conceived of rights at the time. The co-chairmen of the 1947 committee, for instance, distinguished between *rights* and *freedoms*: they defined rights as requiring state action (right to work, property, education, or social security) and freedoms as the absence of state interference (press, speech, religion, association, and assembly).[21] In describing the types of rights appropriate for adding to the constitution, there was an unspoken consensus in favour of civil and political rights during the 1950 hearings. Irving Himel of the Association for Civil Liberties and representatives from the Department of External Affairs were skeptical of placing economic and social rights in the constitution. Even organized labour was divided on the question of economic and social rights. Eugene Forsey, speaking for the 350 000 workers of the Canadian Congress of Labour, believed that a bill of rights was only capable of defending negative rights, and the rights to work or education required positive action by the state, which was best left to federal and provincial governments.[22] In contrast, the Trades and Labour Congress called for the entrenchment of economic rights in the constitution. They insisted that employment, for example, should be a constitutional right. But their views were not shared by most of the people who participated in these debates.[23]

All three hearings failed to secure any consensus around a bill of rights. In addition to the British tradition of civil liberties, Canadians had also inherited the legal principle of Parliamentary supremacy. Parliamentary supremacy was deeply embedded in the country's political and legal culture, which contributed to opposition to a bill of rights.[24] Stuart Garson, the Minister of Justice, perfectly captured this sentiment in a memorandum regarding Roebuck's 1950 committee: "If we agree by an international

Covenant to submit to restrictions upon our Parliamentary sovereignty upon the assumption that in so doing we are protecting the citizens of other less advanced countries by getting their governments to agree to respect their civil liberties, we will have a rather difficult time arguing within Canada that we are not warranted in submitting to the restrictions upon our Parliamentary sovereignty which a bill of rights would involve, for the protection of the civil liberties of our Canadian citizens."[25]

It is no surprise that labour organizations played a leading role during the Parliamentary hearings. Organized labour – often working alongside minorities who were victims of discrimination – was at the forefront of campaigns for anti-discrimination legislation. The Jewish Labour Committee was especially prominent, and established offices across Canada. There was also a fledgling rights movement that had embraced a narrow conception of rights. The first civil liberties groups in Canadian history appeared in Vancouver, Montreal and Toronto in the late 1930s, and several more emerged in response to the Gouzenko Affair.[26] Canadian rights activists by 1950 were composed entirely of self-professed "civil liberties" associations.[27] These associations campaigned for fundamental freedoms and tolerance towards racial, ethnic, and religious minorities. None of them embraced broader principles of human rights, and there were no self-identified "human rights" associations in Canada.[28]

Most civil liberties organizations focussed their efforts on two objectives: a Bill of Rights entrenched in the constitution, and anti-discrimination legislation for employment, services, and housing. In Ontario, the Jewish Labour Committee and the Association for Civil Liberties successfully mobilized dozens of organizations to lobby for legislation banning discrimination. Their efforts succeeded in 1951 when the Conservative

government of Leslie Frost passed the country's first *Fair Employment Practices Act* and, in 1954, the *Fair Accommodation Practices Act* – essentially bans on racial, ethnic and religious discrimination in employment and accommodation (the government also passed, in 1951, a *Female Employees Fair Remuneration Act*). But in other provinces they faced intense opposition.[29] Despite having himself introduced the *Racial Discrimination Act*, Premier George Drew insisted that "the best way to avoid racial and religious strife is not by imposing a method of thinking, but by teaching our children that we are all members of a great human family."[30] Premier Ernest Manning of Alberta rejected demands for anti-discrimination legislation on the grounds that the "government prefers to rely upon those individual rights and privileges as established by the Common Law of England and the British Commonwealth."[31] It was common for political leaders, wary about the implications of these unprecedented laws, to pay homage to British tradition (except in Quebec, where Premier Maurice Duplessis rejected anti-discrimination legislation on the premise that Quebeckers needed only to read the Bible).

Within a few years similar laws were enacted in five other provinces. And yet, many political leaders continued to oppose these initiatives. In British Columbia, during the debates surrounding the 1956 *Fair Employment Practices Act*, one Member of the Legislative Assembly insisted that "discrimination on any grounds contemplated by this bill is virtually non-existent. … Besides, you simply cannot legislate people into the Kingdom of Heaven."[32] In the end, these laws failed to achieve even their own limited mandate. Only one complaint, for example, was prosecuted in Ontario between 1955 and 1962 under its *Fair Accommodation Practices Act* (a restaurant owner, determined to refuse serving blacks, was fined $25 in damages and $155 for legal costs in 1955).[33] Fair

employment and practices legislation – as well as equal pay laws – were rarely enforced, few people were aware they existed, and the legislation was poorly drafted.[34]

In addition to their weak enforcement mechanism, the first anti-discrimination laws in Canada reflected a narrow conception of rights. None of the early statutes, for example, included sex discrimination. Even activists were often blind to their own bias. Campaigns for anti-discrimination legislation did not prioritize gender discrimination and male activists were often blind to discrimination against women. According to Ruth Frager and Carmela Patrias, "most human rights activists apparently believed that women were so fundamentally different from men that issues of sex discrimination could be dismissed on that basis. Many activists held deep convictions concerning the injustice of racist, ethnic and religious discrimination, while remaining blind to sex discrimination. In short, they reflected the sexism that was so widespread in Canadian society at that time."[35] Even most women's organizations failed to raise concerns about the lack of recognition for sex discrimination in debates surrounding the Ontario and federal anti-discrimination legislation. In 1959, the Vancouver Council of Women passed a resolution calling for fair accommodation practices legislation to prohibit discrimination on the basis of race, colour, religion, and ancestry. The resolution *did not include prohibiting sex discrimination*.[36] Similarly, when the National Council of Jewish Women's Toronto branch sent a letter to the Premier of Ontario to end discrimination in employment, they called for legislation dealing with race, colour or creed – not sex.

The 1960 federal *Bill of Rights*, another landmark, was nonetheless entirely consistent with Canada's rights culture during this period. Prime Minister John Diefenbaker's original vision had been for a constitutionally entrenched bill of rights. His

opponents, however, citing the principle of Parliamentary supremacy, undermined any attempt to amend Canada's constitution. It was passed simply as a federal statute. The *Bill of Rights* also defined rights largely in the same terms as other human rights laws in Canada, with the sole exception that, for the first time, a Canadian statute prohibited sex discrimination (alongside race, religion and national origin). As a federal statute, though, the *Bill of Rights* was largely ineffective in practice.

Still, even weak anti-discrimination laws were a manifestation of an evolving rights culture. Rights discourse and the role of the state had traditionally favoured the discriminator; the rights to freedom of speech or association were interpreted to mean the right to refuse service to certain peoples or to express prejudicial ideas. In contrast, anti-discrimination legislation "represented a fundamental shift, a reversal, of the traditional notion of citizens' rights to enrol the state as the protector of the right of the victim to freedom from discrimination. It was, in fact, a revolutionary change in the definition of individual freedom."[37] That the state should prohibit any form of discrimination was transformational.

One area that remained immune from these developments was foreign policy. Human rights was simply not a foreign policy priority during this period. Canada accepted some minor international human rights obligations in the first half of the twentieth century: Canadians attended the Paris Peace Conference in 1919 and signed the Treaty of Versailles, joined the League of Nations, and ratified the International Labour Organization's conventions in 1935. But Canada was hardly committed to advancing human rights abroad. As John Humphrey, the Canadian who drafted the Universal Declaration of Human Rights, noted in 1948: "I knew that the international promotion of

human rights had no priority in Canadian foreign policy."[38] By 1962 the federal government had yet to embrace human rights as a foreign policy priority. Canada had even gone so far as to cite the principle of state sovereignty in opposing international intervention over gross human rights abuses in South Africa in 1955 (and, later, in Nigeria in 1968).[39]

"The early Canadian attitude toward United Nations involvement with rights," explains Cathal Nolan, "was clearly apathetic, and even a little smug. Ottawa considered the US proposal on human rights wrongheaded at best, and at worst as constituting an invalid interference in the internal affairs of states."[40] Canadian foreign policy privileged state sovereignty to the detriment of human rights intervention.[41] The country's support for human rights, especially within the United Nations, was initially based on a cold calculation of self-interest: "Ottawa slowly accepted an international dimension to rights because it came to believe that the popular appeal of the idea might help keep afloat the UN and thereby the promise of security that multilateral statecraft was thought yet to carry in its hold."[42]

Despite such notable advances during this period – the first anti-discrimination laws, the first Parliamentary inquiries into a bill of rights, the first civil liberties groups, and Canada's ratification of the UDHR – human rights progress was stifled in the context of the Cold War.[43] A 1946 Gallup poll had asked Canadians if communists had a right to free speech: a majority said no. The Cold War dominated international and domestic politics to the detriment of human rights progress. Governments often dismissed concerns surrounding human rights abuses, including their own brand of McCarthyism and vicious attacks against trade unionists, by accusing critics of being soft on communism.[44] Rights

were defined within the narrow scope of civil liberties. Social movements and the law were largely concerned with fundamental freedoms and discrimination against racial, ethnic and religious minorities. Even trade unionists, sometimes afraid of being labelled communists, largely eschewed social and economic rights. The same province that introduced the first anti-discrimination law in Canadian history, however, set the stage for the rights revolution when it passed the country's first human rights statute in 1962.

3. 1962 to 1974: Origins of Canada's Rights Revolution

By the 1970s Canadians increasingly spoke of rights as human rights rather than civil liberties. The emergence of a new generation of rights activists as well as Ontario's landmark *Human Rights Code* marked the beginning of Canada's rights revolution.

The Ontario *Human Rights Code* (1962) incorporated existing anti-discrimination laws into a single statute that was enforced through the Human Rights Commission.[45] The *Code* prohibited discrimination on the basis of religion, race, and ethnicity in accommodation, employment, and services. It was a landmark achievement. First, it contained an effective enforcement mechanism, with full time human rights investigators, a process for conciliation, and formal inquires with the power to enforce settlements. Second, it contained a mandate for human rights education and promotion. Third, the legislation provided for constructive remedies: offenders might pay a fine, offer an apology, reinstate an employee, or agree to a negotiated settlement.

The *Human Rights Code* represented a new approach to conceptualizing discrimination. James Walker has identified three stages in the evolution of human rights law in Canada. The first phase, for "equal citizenship," sought to end legal distinctions among citizens in areas such as immigration and the franchise. The second phase, "protective shields," led to the first anti-discrimination statutes. Protective shield laws were guided by a belief that discriminatory acts were the result of individual aberrant behaviour, or psychological problems attributed to pathological individuals. These individuals influenced popular notions of what was right and moral (like a contagious disease). The solution, therefore, was to stop the disease at its source by mobilizing the state to punish individual acts of discrimination. The third phase, "remedial sword,"

involved state policies designed to "correct systemic conditions that produce discriminatory results even in the apparent absence of overt prejudicial acts."[46] Ontario's *Human Rights Code* initiated the shift towards "remedial sword" policies. Instead of focusing on the threat of pathologically prejudiced individuals, human rights laws were premised on the belief that prejudice could be unspoken and systemic. Over time, the legislation was interpreted to recognize that intent was not required to prove discrimination, and that seemingly neutral practices could have discriminatory effects and reinforce discriminatory patterns. In this way, Ontario's *Human Rights Code* addressed substantive as well as formal equality: "A substantive equality approach asks whether the same treatment in practice produces equal or unequal results. … Substantive equality requires taking into account the underlying differences between individuals in society and accommodating those differences in order to ensure equality of impact and outcome."[47] However, it would be another fifteen years before every other jurisdiction in Canada followed suit and, in 1962, the Ontario legislation did not even ban sex discrimination.[48]

The Jewish Labour Committee and the Association for Civil Liberties were prominent in the campaign for the *Human Rights Code*. Both organizations, though, were largely defunct when a new generation of rights associations began emerging in 1962. The first to appear were the British Columbia Civil Liberties Association (1962) and the Canadian Civil Liberties Association (1964). In 1968, the federal government provided $1 million in funding to organize local community groups to celebrate the twentieth anniversary of the UDHR. Several *human rights* associations were formed in each province. The Newfoundland Human Rights Association and the Alberta Human Rights

Association, among others, evolved into permanent, independent advocacy groups.[49] Each cited the UDHR in its founding constitution.[50]

Meanwhile, the rights revolution began to transform Canada's political culture. Opponents of a bill of rights had routinely paid homage to the principle of Parliamentary supremacy. The first breakthrough was the 1960 *Bill of Rights*, which, albeit a statute and not a constitutional amendment, demonstrated that codifying rights was not inconsistent with a parliamentary system of government.[51] However, it was a vague and limited statute that contained only the most elementary civil and political rights. Frank Scott, perhaps the country's most respected constitutional scholar in this period, disdained the law: "That pretentious piece of legislation has proven as ineffective as many of us predicted."[52] Only a constitutional amendment could overcome the weakness of the *Bill of Rights.* In an attempt to secure an agreement with the provinces to patriate the constitution with an entrenched bill of rights, the federal government appointed a joint committee of the Senate and House of Commons in 1970. Although the initiative was unsuccessful, it is notable that, for the first time, there was a consensus that Parliamentary supremacy was not an obstacle to a bill of rights: "Parliamentary sovereignty is no more sacrosanct a principle than is the respect for human liberty which is reflected in a Bill of Rights. Legislative sovereignty is already limited legally by the distribution of powers under a federal system and, some would say, by natural law or by the common law Bill of Rights."[53] The report was a milestone in contributing to the erosion of Parliamentary supremacy as a cornerstone of Canada's political culture.

However, the committee did not challenge traditional ideas about rights. The provinces only considered fundamental freedoms (press, speech, association, assembly,

and religion), due process and voting as appropriate human rights for the constitution.[54] Manitoba alone defined economic and social welfare as human rights, but the committee chairmen concluded that "it seems to be generally accepted that it would be unrealistic to think of entrenching such rights in a Constitution."[55] Most of the NGOs participating in the process shared this assumption.[56] The National Council of Women was concerned primarily with prohibiting discrimination on the basis of sex, national or ethnic origin, colour, religion and marital status (the same grounds listed in existing provincial legislation).[57] The National Indian Brotherhood declined to recommend any specific rights: they were concerned with first addressing Aboriginal peoples land claims.[58] Perhaps the most controversial submission came from the Action League for the Physically Handicapped Advancement (ALPHA).[59] After presenting a grim picture of the lives of people with disabilities, who were routinely denied jobs, ALPHA endeavoured to make a case for a human right to accessible transportation, housing, and public institutions. Mark MacGuigan, the Member of Parliament co-chairing the inquiry, was doubtful: "The difficulty with putting something of that kind and of that nature in the constitution is that it is so broad that it would be very hard to bring court cases on the basis of it ... If it is negative in the Bill of Rights, I think it can be handled by the courts, but if it is to be positive, it is so broad that it is very difficult for a court to say the government must do this or the government must do that."[60]

In the meantime, the federal government was under intense pressure from international institutions, a domestic human rights movement, and a maturing Canadian legal profession to ratify human rights treaties.[61] A white paper in 1970 called for a more positive approach to human rights at the United Nations: "There is an expectation that

Canada will participate in international efforts in the human rights field on a more extensive and meaningful scale than in the past."[62] It was not much of a commitment. In fact, the federal government had done nothing to indicate any plans to promote human rights abroad. And yet it was the first time in history that the Canadian government had come close to endorsing the principle that human rights was a cornerstone of international politics. Soon after, the federal government targeted South Africa for its human rights abuses and banned its athletes from entering Canada, removed trade commissioners, cancelled export credits, and stopped arms sales. It was a small step, but the rights revolution was clearly underway. Canadians would soon abandon their deference to British civil liberties and embrace more expansive human rights ideals.

4. 1974 to 1984: The Human Rights Revolution

In 1974, British Columbia passed what may have been the most progressive human rights law in the world. In addition to containing all the strengths of the Ontario model, the British Columbia *Human Rights Code* included a "reasonable cause" section.[63] At the time, anti-discrimination legislation in Canada and abroad was limited to specific grounds, such as race or religion.[64] The provision was a blanket prohibition on all forms of discrimination unless the respondent could demonstrate reasonable cause.[65] The legislation initiated a transformative period in Canadian history when the rights revolution came to fruition. A generation after the federal government almost rejected the UDHR, Canada embraced human rights as a legitimate component of foreign policy and international politics. From a handful of civil liberties organizations in the 1940s, Canada's social movement landscape had by this time produced a vigorous human rights movement. The failed anti-discrimination laws of the 1950s were all replaced with comprehensive human rights statutes. And the constitution was patriated with an entrenched bill of rights. Only a generation earlier most political leaders had rejected the very idea of a bill of rights on the premise that it was inconsistent with the country's political culture.

Social movements embodied the rights revolution. By 1974 there were dozens of human rights and civil liberties organizations across Canada, with at least one in each province. This development was all the more surprising considering the lack of a strong tradition of rights advocacy in Canada before the 1970s. However, the rights revolution produced significant divisions within the movement. For example, whereas civil liberties groups fought to remove unfair restrictions on citizens who received social assistance

(e.g., prohibiting single women from having male houseguests – the so-called "man in the house" rule), human rights groups argued that individuals had a right to economic security, and could not exercise their political and civil rights without proper resources (civil liberties groups took the position that this was a matter of public policy, not rights). And these disagreements were evident on numerous issues, such as pornography, immigration, sexual assault laws, and hate speech.[66] These ideological divisions were quite real for Canadian activists: for many years the leading national rights association in the country was an umbrella group awkwardly called the Canadian Federation of Civil Liberties and Human Rights Associations. It was a uniquely Canadian social movement.

One of the country's largest rights associations, Montreal's Ligue des droits de l'homme, epitomizes how human rights transformed social movements in Canada. The Ligue, which began as a civil liberties association (its original English name was the Quebec Civil Liberties Union), explicitly rejected its civil libertarian roots and embraced a human rights platform in 1974. Its new mandate was to adapt to the changes occurring within Quebec society and consider the unique problems facing the poor, women, elderly, youth and minorities. The manifesto embraced notions of *positive* freedom. With this new mandate, economic, social and cultural rights were given equal (if not greater) priority to civil and political rights. Instead of concerning itself with individual rights, the Ligue believed equality would be achieved by improving the social conditions in which those rights were exercised.[67] In this way, the Ligue reflected broader developments within Canada's social movement landscape. Social movements led by women, gays and lesbians, Aboriginal peoples, churches and a host of others embraced human rights as a vision for social change.[68]

Foreign policy was also integral to the rights revolution. Canada participated in the negotiations that led to the Helsinki Accords in 1975 with the Soviet Union, which, among other things, committed each country to a set of human rights principles.[69] After securing provincial consent, Canada acceded to the International Covenant on Civil and Political Rights, as well as the International Covenant on Social, Economic and Cultural Rights, in 1976.[70] The federal government later embraced several international human rights initiatives, from celebrations surrounding the UDHR to "decades" of combating racism or women's rights.[71] These international commitments created a unique opportunity for Parliamentarians to become involved in foreign affairs. In the early 1970s, MPs responded to human rights violations in Eastern Europe with vague calls for self-determination or minority rights. But MPs were now able to draw on the language contained in the Helsinki Accords to introduce resolutions in Parliament dealing with family reunification, free movement of people, religious freedom and other equally precise reforms that demonstrated an evolving understanding of the issues.[72] MPs also participated in increasing numbers in international human rights conferences as part of Canadian delegations to the United Nations and as members of various monitoring groups abroad.[73] Over time, many MPs gained valuable experience and expertise on human rights issues, and they brought this knowledge to Parliament where they continued to pressure the federal government to integrate human rights into foreign policy.[74]

Canada's participation in international human rights institutions encouraged developments at home, which, in turn, prompted the state to become increasingly involved in human rights promotion abroad.[75] The federal government inserted a section on refugees to federal immigration law in 1976 and withdrew aid from the Amin regime

in Uganda. A year later, it imposed limited economic measures (including bans on exporting food and credits) to Poland and the Soviet Union. Soon after, the federal Minister for External Affairs declared that it was the government's policy to consider human rights in the distribution of foreign aid.

The rights revolution was most clearly manifest, however, in domestic law. British Columbia's *Human Rights Code,* in particular, was remarkably progressive. Women were able to use the reasonable cause section to set precedents in areas such as pregnancy and sexual harassment.[76] Only a few years earlier, the term sexual harassment had not even existed.[77] That people now spoke of sexual harassment as a human rights violation – and that it was recognized for the first time in human rights law – was a significant advancement at a time when, as the former editor of *Chatelaine* noted, "some men simply assumed sexual harassment was a perk of being boss. … Every single woman I knew had been propositioned at some time, mostly by married men."[78] Other precedents included prohibiting discrimination on the basis of physical appearance, disability, pardoned conviction, age, language fluency, sexual orientation (later overturned), and immigrant status.[79] Moreover, the British Columbia experience reflected the growing interest in substantive equality. Several boards of inquiry recognized the existence of systemic discrimination in the form of patterns of behaviour or institutional practices that exacerbated the disadvantages of marginalized communities. Lack of intent, or honest belief, was no longer a legitimate defence. And seemingly neutral practices, such as arbitrary height and weight requirements, were recognized as discriminatory practices. Developments in British Columbia soon became the norm across Canada.

Affirmative action programs, sanctioned by human rights commissions, were also created to address the legacy of generations of discriminatory treatment.

The federal *Human Rights Act* (1977) completed a nation-wide effort to entrench human rights in law.[80] In less than a generation, Canadians had established one of the most sophisticated human rights legal regimes in the world. There was remarkable uniformity across the country: federal and provincial legislation was largely based on the original Ontario model. Human rights legislation prohibited discrimination in services, employment, accommodation, advertising and signs. In each case, they incorporated existing anti-discrimination laws into a single statute. The federal legislation also reflected the increasing diversity of human rights in Canada: it did not only prohibit discrimination on the basis of race, religion and national origin, but covered grounds such as sex (including sexual harassment and pregnancy), ethnic origin, age, marital status, physical disability, and pardoned conviction. In this way, the federal statute was the product of decades of human rights legal reform at the provincial level.[81]

The Canadian human rights system was among the most comprehensive in the world. Equality commissions in the United Kingdom, Australia and the United States, for example, had far more restrictive mandates and less effective enforcement mechanisms.[82] Despite the proliferation of human rights laws since the 1970s, including among Eastern European and third world countries,[83] few of these models incorporated all the strengths of the Canadian system: professional human rights investigators; public education; research for legal reform; representing complainants before inquiries; jurisdiction over the public and private sector; a focus on conciliation over litigation; independence from the government; and an adjudication process as an alternative to the courts. Considering

the lack of almost any effective statutory or constitutional recognition of human rights in Canada in the 1940s, human rights laws were truly transformational.

Still, innovations in human rights policy were contested, and political debates during this period revealed how many Canadians sought a more expansive approach to human rights. The federal *Human Rights Act*, for example, contained several innovations: it was one of only a few jurisdictions at the time that banned discrimination on the basis of a pardoned conviction and physical disability, or to recognize equal pay for work of equal value; it created an independent commission that did not report to a cabinet minister; and the statute recognized the right to access (and correct) private information held by the government. And yet the Minister of Justice's goal was to avoid any radical departure: "A prime objective has been to allow the Commission to establish itself without being initially overburdened. … it would not be desirable to impose initially upon the Commission the responsibility of dealing with too many concepts in the human rights area for which there are no guiding precedents."[84] As a result, many Parliamentarians and NGOs insisted that the federal government had not gone far enough. In fact, most of the critics raised the same concerns, which suggested that there was a growing public consensus around new rights claims. Virtually all the critics, including the six NGOs that made representations to Parliament, chastised the government for not including sexual orientation or political affiliation; for not applying the legislation to the *Indian Act* to stop discrimination against women; and for failing to ban mandatory retirement.[85]

What stands out most about the discussions in Parliament in 1977 is that no one objected to the *Human Rights Act* in principle. When the first anti-discrimination laws

were introduced, opponents insisted that discrimination did not exist, or that it was impossible to legislate morality, or that it was an unjust interference from the state. Support for human rights legislation constituted a genuine evolution in Canadians' ideas about rights and law. A similar consensus surrounded the *Charter of Rights and Freedoms*. Few people in 1980 challenged the legitimacy of a bill of rights on the basis of Parliamentary supremacy. Moreover, it was evident that Canadians' ideas about human rights had changed dramatically since the first Parliamentary hearings in the 1940s.

The federal government initially envisioned a Special Joint Committee on the Constitution to consult Canadians regarding the proposed Charter that would last a few weeks. In the end, it took almost a year to finish: hundreds of people submitted letters or came to Ottawa to present briefs. Whereas 6 NGOs had made presentations to Parliament on the *Human Rights Act*, 90 NGOs came to Ottawa in 1980-1. In total, 323 NGOs and 639 individuals made submissions. At no other time in Canadian history had the state engaged in such an expansive consultation with ordinary Canadians about human rights.

In the 1940s, discrimination on the basis of race and religion dominated public debates surrounding a bill of rights. NGOs pointed to instances where Blacks, Japanese, Jews and other minorities were denied services or employment. Organizations such as the National Black Coalition were still part of the conversation in 1980, and insisted during the hearings surrounding the Charter that affirmative action was necessary to "redress historical disadvantages."[86] However, what had changed was that far more ethnic organizations were engaged in these debates in the 1980s. The Baltic Federation of Canada, Canadian Polish Congress, and Canadian Slovak League, for example, challenged the idea of "founding races."[87] Language rights, they insisted, had to include

people whose mother tongue was neither English nor French.[88] One of their primary contributions to the dialogue was to define the retention of culture and identity as fundamental human rights.

Debates surrounding religion and a bill of rights in the 1940s focussed primarily around eliminating the overt repression of religious minorities. In the 1980s, though, the discussion had shifted towards the right to maintain separate state-funded schools, hospitals and child care institutions.[89] Key players in the 1940s had been organized labour and business; the former was especially concerned about protecting the right to join a trade union. Again, by 1980, the debate had shifted. The British Columbia Federation of Labour suggested that the Charter should recognize all forms of workplace discrimination, including political belief and disability.[90] Organizations representing business, on the other hand, raised a host of new issues as human rights: free markets and trade; the mobility of persons to pursue a livelihood; the mobility of capital and professional accreditation; property; and the free circulation of goods and services.[91]

While sex discrimination was not even recognized in law until the 1960s, by 1980 sex discrimination had evolved to include sexual harassment as well as marital or family status. During the Charter debates, women's organizations continued to advance an even more robust understanding of sex discrimination. The Canadian Committee for Learning Opportunities for Women framed economic independence, meaningful work, and equal participation in public life as human rights.[92] NGOs representing women, including the National Action Committee on the Status of Women, and the National Association of Women and the Law, raised the possibility of a human right to learning and training; the right to an annual income; the right to parental leave; and the right to free and quality

child/day care (especially for single mothers).[93] Children were also represented by organizations such as a the Canadian Council on Children and Youth, and the Canadian Council for Exceptional Children, which defined child care and education for children with disabilities as human rights.[94] Whether or not abortion was a human right was an especially divisive issue throughout the hearings. It pitted every women's rights organization, including the Canadian Abortion Rights Action League, against pro-life associations and the Canadian Conference of Catholic Bishops.

Sexual minorities and people with disabilities may have been virtually absent during the 1970 hearings, but they were prominent in the Charter debates. The Canadian Council on Social Development wanted to prohibit discrimination against handicapping conditions, socio-economic status, marital status, sexual orientation, and political belief. It also favoured a human right to employment, protection against unemployment, healthy working conditions and an adequate standard of living, health care, education, social insurance, and privacy.[95] The United Church also petitioned for the rights of refugees, immigrants, inmates, as well as minimum standards for housing, nutrition, and income.[96] The National Anti-Poverty Organization lobbied for socio-economic and labour rights, including rest and leisure, paid holidays, and mobility rights for welfare recipients.[97] For gay and lesbian organizations, the hearings provided the first major national forum to advance new rights claims since they had begun to organize in large numbers in the 1970s. The Canadian Association of Lesbian and Gay Men sought the same basic right against discrimination that had already been accorded to women and people with disabilities, as well as visible, ethnic and religious minorities.[98] Meanwhile, the Canadian Council of the Blind and the Canadian National Institute for the Blind highlighted

discrimination against people with visual impairments in employment as well as a host of other practices: banned from sitting on juries; harsh immigration policies; denied minimum wage; and prohibitions on marriage for the people with mental disabilities.[99] Other organizations pointed out that people with auditory impairments were routinely denied goods and services, as well as access to facilities, accommodations and employment.[100]

Clearly, Canadians' ideas about rights were still evolving in the early 1980s. Submissions to the Special Joint Committee on the Constitution not only reveal a host of new rights claims, but also demonstrate how Canadians built upon earlier claims. Following their success in the 1970s in banning direct forms of sex discrimination, especially in the workplace, women now forwarded rights claims on a variety of issues, from abortion to day care. Of course, women had been mobilizing around these issues for generations. But it was indicative of the impact of the rights revolution that women framed their demands in the language of human rights.

The most symbolic moment during the hearings was when Aboriginal peoples participated. Aboriginal peoples groups had never before engaged with human rights policy in a meaningful way. True, Aboriginal peoples participated in public discussions surrounding the federal *Human Rights Act*, but only insofar as to oppose any provisions that might apply to the *Indian Act*. Most Aboriginal peoples organizations insisted on completing negotiations over outstanding claims before addressing human rights legislation. Complaints to human rights commissions involving Aboriginal peoples had always been low: a survey of complaint files in British Columbia, Alberta, Ontario, New Brunswick, and Newfoundland reveals that human rights commissions rarely investigated

complaints involving Aboriginal peoples by 1982.[101] Aboriginal peoples' refusal to engage with human rights policy may also have been due to the lack of any cultural tradition of individual rights. In fact, Aboriginal peoples had legitimate reasons to be skeptical of the benefits of framing their issues using rights language following the debacle over the 1969 White Paper.[102] And for obvious reasons, most Aboriginal peoples mistrusted government agencies.[103]

Nonetheless, several Aboriginal peoples groups participated in the hearings. The Association of Métis and Non-Status Indians of Saskatchewan drew attention to deplorable living conditions on reserves, and demanded recognition of their right to control natural resources, economic development and education.[104] The National Indian Brotherhood framed their exclusion from political life as a form of collective discrimination, while insisting on hunting rights and a repeal of the ban against ceremonies.[105] Human rights, they insisted, had to include a positive recognition of treaties and self-determination.[106]

Canada became the first country to recognize multiculturalism in its constitution, and one of the few in the world with a bill of rights that recognized education, language, Aboriginal peoples, and equality among men and women. Even the United States' much-vaunted Bill of Rights was far more limited in scope. There was clearly a consensus around certain rights claims. In a poll conducted in 1982, 69 per cent of respondents agreed that discrimination against racial minorities should be prohibited; 89 per cent thought the Charter should protect against discrimination against those age 65 or older; and 77 per cent agreed that the constitution should ban sex discrimination.[107] In contrast, support for language rights (61 per cent), religion in schools (58 per cent) and especially

sexual orientation (32 per cent) was more contested.[108] Opinion polls did not even bother to ask Canadians about entrenching economic and social rights. Only a few NGOs and parliamentarians suggested that the *Charter of Rights and Freedoms* should include economic and social rights. In this way, the Canadian Bar Association reflected Canadians continued ambivalence to these rights claims: "Thus most economic rights, such as the right to a basic standard of living or the right to work, can best be protected by positive state action by legislatures. … [A] Bill of Rights should be carefully drafted so as to minimize the possibilities of judicial interference in economic and social welfare policy."[109] However, even this deficit in Canada's rights culture did not go uncontested. Quebec had already set a new standard when it incorporated economic and social rights in its provincial human rights legislation.

It is difficult to overstate the transformative impact of the rights revolution on Canadian law between 1974 and 1984. No other period in history witnessed such pervasive legal reform. Two major inquiries – the Ontario Royal Commission into Civil Rights and the Commission of Enquiry into the Administration of Justice on Criminal and Penal Matters in Quebec – resulted in extensive statutory reform designed to protect individual rights.[110] The inquiries addressed hundreds of issues including ombudsmen, legal aid, juvenile and family courts, coroner's inquests, bail for poor people, compensation to victims of crimes, and processing appeals. Meanwhile, privacy legislation was passed in most jurisdictions to protect individuals from such actions as unnecessary police wiretaps or insurance companies disclosing information about their clients. Linguistic rights were reaffirmed in 1969 with the passage of the federal *Official Languages Act*.[111] In the same year an omnibus bill with 120 amendments to federal

statutes partially legalized abortion, decriminalized homosexuality, restricted the scope of material witness orders, and instituted stronger criminal penalties for cruelty against animals.[112] One of the most famous inquiries in Canadian history, the Royal Commission on the Status of Women, precipitated extensive provincial and federal legal reform. The 1974 federal *Statute Law (Status of Women) Amendment Act* alone addressed women's rights in immigration law, pensions, unemployment insurance, elections, and citizenship (by 1977, the federal government had implemented over 80 per cent of the recommendations).[113] After decades of moratoriums on the death penalty, Parliament abolished capital punishment in 1976. Children were recognized as having their own rights as well. Quebec's *Youth Protection Act* of 1977, for instance, guaranteed youths the right to be consulted about switching foster care parents and to consult a lawyer before judicial proceedings, while the *Ontario Child Welfare Act* of 1978 protected the privacy of adopted children.[114] People with mental disabilities became rights-bearing citizens; in some jurisdictions, they were included in minimum wage laws, and greater restrictions were placed on forcible confinement. Prisoners were granted the vote for the first time in Quebec in 1979. The federal government introduced freedom of information legislation in 1982, followed soon thereafter by each province.[115] By now, every jurisdiction had hired ombudsmen. Although significant legal reforms would, of course, continue to emerge, in many cases they built upon precedents from this period.

Public discourse surrounding rights in Canada was no longer dominated by references to fundamental freedoms, due process or discrimination against racial, religious or ethnic minorities. Social movements, politics, law and foreign policy were transformed: Canada's decision to suspend aid to Chile and Vietnam in 1979, and later to

Guatemala and El Salvador in 1981, was further evidence of the rights revolution's impact on foreign policy.[116] However, in British Columbia, the beginnings of a powerful attack on Canada's rights revolution was emerging. In 1984, the Social Credit government earned the dubious distinction of becoming the first jurisdiction to eliminate its human rights commission. The *Human Rights Code*, with its famous reasonable cause section, was repealed and replaced with legislation designed to punish individuals rather than conciliate or address systemic discrimination. The move was bitterly contested within the province, and was denounced across Canada and abroad. Gordon Fairweather, the Chief Commissioner of the Canadian Human Rights Commission, criticized reforms he characterized as "emblematic of a police state."[117] Ken Norman, Chief Commissioner of the Saskatchewan Human Rights Commission, insisted that "tearing apart the institutional fabric of the human rights commission and human rights branch is a very regressive step."[118] The International Association of Human Rights Agencies passed a resolution attacking the proposed amendments.[119]

The controversy in British Columbia in 1984 typified the contested nature of human rights in Canada. Over the next decade there would be increasing pressure to expand the scope of human rights law as Canadians appropriated rights discourse to advance new claims.

5. 1984 to 1998: Contesting Human Rights

British Columbia's 1984 *Human Rights Act* did contain one progressive amendment: physical and mental disability were added as prohibited grounds of discrimination.[120] From the 1940s to 1960s, most complaints submitted under anti-discrimination laws dealt with race. In this way human rights law reflected public discourse surrounding rights at the time, which largely focused on fundamental freedoms or visible, ethnic, and religious minorities. From 1969 to the mid-1980s, however, more than 50 per cent of complaints in any given year dealt with sex discrimination, even though most provinces recognized a half dozen or more grounds for discrimination.[121] Once again, this development reflected social trends in Canada: this period saw the rise of second-wave feminism and significant advances in women's rights. Disability was one among several new issues that entered the Canadian human rights lexicon in the 1980s, and would soon supplant race and sex as the largest numbers of complaints submitted to human rights commissions.[122]

In 1984, Justice Rosalie Abella produced a royal commission report on employment equity.[123] It affirmed a growing trend towards substantive equality. Abella was critical of the human rights legislative model as it existed in 1984:

> This approach to the enforcement of human rights, based as it is on individual rather than group remedies, and perhaps confined to allegations of intentional discrimination, cannot deal with the pervasiveness and subtlety of discrimination. ... Neither, by itself, can education. Education has been the classic crutch upon which we lean in the hopes of coaxing change in prejudicial attitudes. But education is an unreliable agent, glacially slow in movement and impact, and often completely ineffective in the face of intractable views. It promises no immediate relief despite the immediacy of the injustice.[124]

Abella's report began with a plea for a broader approach to rights adjudication that addressed systemic discrimination: "the systemic approach acknowledges that by and

large the systems and practices we customarily and often unwittingly adopt may have an unjustifiably negative effect on certain groups in society. The effect of the system on the individual or group, rather than its attitudinal sources, governs whether or not a remedy is justified."[125] She did not recommend quotas. Rather, Abella called for widespread reform to public and private employment practices to systemically eliminate barriers to marginalized groups (Abella also envisioned a leadership role for the Canadian Human Rights Commission, with the Commission tasked with developing and monitoring new programs).[126] A year later the Supreme Court of Canada upheld the concept of systemic discrimination, and several provinces incorporated a mandate to address systemic discrimination in their human rights legislation.[127] British Columbia, Saskatchewan, and New Brunswick had also begun to promote affirmative action programs through human rights legislation.

Abella's 1984 report was part of a new era of expanding rights claims. By this time many Canadians even began to challenge the notion of human rights as individual rights. The Parti Québécois' 1979 proposal for sovereignty-association argued that English Canadians placed "the accent on individual rights and preferred to ignore any reference to collective rights."[128] Similarly, the Ligue des droits de l'homme not only endorsed the right to self-determination, but also campaigned for unilingual French education in Quebec as a fundamental human right.[129] The debate surrounding French Canadians' collective rights would haunt the nation for a generation: evidenced by the Meech Lake and Charlottetown Accords; court challenges surrounding language rights, the notwithstanding clause and the *Clarity Act*; and, ultimately, a second referendum in 1995. Between 1984 and 1999 debates surrounding collective versus individual rights

reached a fevered pitch, once again demonstrating the contested nature of rights in Canada. Neil Bissoondath's best-selling 1994 book, *Selling Illusions*, highlighted that the conflict surrounding collective rights was not limited to French Canadians. His book launched a divisive national debate by touching on many Canadians' often unspoken concerns surrounding the perceived conflict between "Canadian values" and the collective rights claims of ethnic and religious minorities.[130]

Meanwhile, feminists were at the forefront of advancing a more nuanced understanding of discrimination: intersectionality. An intersectional analysis recognized that reducing discrimination to one factor, such as sex, failed to account for how some individuals experienced discrimination.[131] Someone might be discriminated against, not because she was a woman or a person with a disability, but because she was a woman with a disability.[132] This inadequacy was exacerbated under human rights laws, which defined discrimination through a list of independently enumerated grounds.[133] Adjudicators were encouraged to examine a case through a single ground at a time, and complainants had to define themselves in narrow terms: "In essence, the categorical structure of equality rights requires those injured through relations of inequality to caricaturize both themselves and their experiences of inequality, in order to succeed with a legal claim."[134] As a result, inquiries might misunderstand the causes of discriminatory acts or the nature of the harm (harm is compounded as a result of multiple factors), remedies might be affected, victims might be forced to frame their complaints in ways that do not reflect their actual experiences, and the case might be dismissed because adjudicators failed to account for the underlying cause.[135] Intersectionality was especially prominent in the 1985 campaign against Ontario's man in the house regulation. Women

and single mothers on social assistance lost their benefits if there was evidence they were living with a man. Women's rights groups convinced the Ontario government to dispense with the regulation after threatening to take the government to court for violating the Charter. Later attempts to reintroduce the policy were rebuffed by courts in Nova Scotia and Ontario. These victories represented "important litigation successes recognizing the intersectionality of poverty and sex discrimination in a manner that was emphasized by women's groups in 1985. … The exclusion of public housing tenants from security of tenure provisions constitutes discrimination because of race, sex and poverty."[136] In 1998, the federal *Human Rights Act* was amended to recognize that "a discriminatory practice includes a practice based on … the effect of a combination of prohibited grounds."

Human rights law reflected popular discourse surrounding human rights: sexual harassment, disability, social condition, addiction, source of income, and family status were recognized in legislation (albeit, recognition varied depending on the jurisdiction). The decision to include people with disabilities in the 1984 British Columbia *Human Rights Act* was unopposed among legislators, and the inclusion of disability received virtually unanimous support when similar amendments were introduced in other jurisdictions. In contrast, grass-roots movements to have sexual orientation recognized as a human right faced bitter opposition. No other issue better symbolized the conflict surrounding the emergence of new rights claims.

Politicians in Canada had, for many years, rejected sexual orientation as a human right. Although in 1974 British Columbia had produced one of the most innovative human rights laws in the world, the government refused to include sexual orientation.[137] Members of Parliament and NGOs lobbied to have sexual orientation included in the

Human Rights Act and the *Charter of Rights and Freedoms*, only to be rebuffed by the federal government. The Ontario government rejected repeated recommendations from its own commission and NGOs to add sexual orientation to the *Code*.[138] Quebec was the first jurisdiction to ban discrimination on the basis of sexual orientation (in 1977), but it would be almost another decade before another province, Ontario, did the same.

By the 1990s many provinces still refused to recognize sexual orientation as a human right. A major overhaul of Newfoundland's *Human Rights Act* in 1988 was almost jettisoned entirely when the cabinet became embroiled in the debate over sexual orientation.[139] The Minister of Justice in 1990 feared that banning discrimination on the basis of sexual orientation would protect pedophiles, and insisted that such discrimination did not exist in Newfoundland. The Newfoundland Human Rights Commission's files indicate that it never investigated a case of discrimination against gays and lesbians before 1993, even though at least two such incidents were documented by the Newfoundland Human Rights Association in 1990.[140] When the government relented and amended the law in 1997, only Prince Edward Island and Alberta remained. Within a year the former followed suit, but the government of Alberta adamantly refused to amend its human rights legislation.[141]

Alberta became the battleground for competing notions of rights. Activists wrote briefs, mounted letter-writing campaigns, held meetings with members of the legislature and formed a provincial organization called the Alberta Lesbian and Gay Rights Association. Undeterred, the government appointed a Chief of the Human Rights Commission who was openly hostile to gays and lesbians.[142] A cabinet minister, reflecting the prevailing attitude within the provincial government, declared that the

province would never ban discrimination if it meant allowing homosexuals to teach in schools. Another insisted that "two homosexuals do not constitute a family."[143] The government even went so far as to introduce legislation in 1999 restricting common law marriages to heterosexual couples.[144] In Calgary, the 1995 lesbian and gay film festival (which received a $4,000 federal grant) was attacked on national television by religious fundamentalists for being a "pornographic film orgy." One evangelical minister insisted that "I'm not after the homos or the bi's, I'm after the fact they're showing porno movies in a tax-funded situation."[145] Two years later, a group of evangelical Christians convinced the chief superintendant of the Calgary Public School Board to ban two books from school libraries that dealt with homosexuality because they were "pro-gay."[146]

It was left to the courts to resolve the impasse. Delwin Vriend, a professor who was fired from King's College in Edmonton for being gay, convinced the Alberta Supreme Court that the human rights commission's refusal to investigate his case violated his rights under the *Charter of Rights and Freedoms*. Although the Appellate Court overturned the ruling, the Supreme Court of Canada ruled in 1998 that the human rights law's omission of sexual orientation violated the Charter. The Supreme Court of Canada ordered the government of Alberta to interpret its human rights legislation as if it included sexual orientation. In 1998, for the first time in Alberta's history, it was illegal to discriminate on the basis of sexual orientation.

6. 1998 to 2011: Emerging Challenges

Sexual orientation is only one example of how rights are contested, or how they have evolved in new directions. Abortion remains a contested issue, and the law has yet to recognize an explicit right for women to access an abortion. Many Canadians, most notably those in organizations representing police officers and prison guards, reject the assertion that capital punishment violates human rights. The Supreme Court of Canada has also restricted the application of Quebec's prohibition on discrimination on the basis of social condition. These developments constitute significant challenges for Canadians as the country struggles to define a rights culture. The focus of this report has been on the historical evolution of Canadians' ideas about rights using social movements, political debates surrounding the constitution, legal reform, and foreign policy. The following section offers a brief contemporary perspective on human rights in Canada using opinion polls, the print media, and NGOs. It is apparent that ideas of rights are not only contested, but have expanded into a host of new areas in recent years.

Public Opinion Polls

Opinion polls are a useful indicator of how Canadians' ideas about human rights have evolved over time, and how national and international events have shaped public opinion. For instance, the majority of respondents in a 1946 Gallup poll were opposed to free speech for communists, which was unsurprising given the context of the emerging Cold War and fears about a looming conflict with the Soviet Union.[147] None of the polls identified in this study that were produced between 1946 and 1962 asked questions about,

for example, disability or sexual orientation. Polling on human rights during this period was dominated by questions about fundamental freedoms, due process, race, and religion.

Sex discrimination became the subject of several polls beginning in the 1950s. The findings help explain why sex discrimination had yet to emerge as a mainstream human rights issue. Many Canadians, according to a poll conducted in 1955, were still uncomfortable with the idea of a female doctor (20 per cent) or a female lawyer (34 per cent).[148] Respondents to a poll in 1960 overwhelmingly (70 per cent) agreed that married women should *not* be given equal opportunity with men for jobs.[149] And none of these polls framed the issue as a human right. In fact, opinion polls by the early 1970s still defined human rights almost exclusively in terms of fundamental freedoms. The first polling on same-sex couples, for example, did not ask about rights, but instead asked about whether or not homosexual behaviour (conducted in private) should be criminalized: 41 per cent answered yes in 1968, and 42 per cent said no.[150] Abortion, as well, was not framed as women's rights. Instead, pollsters asked if abortion should be permitted if the child was deformed (46 per cent answered yes in 1962); if the mother's mental and physical health was in danger (72 per cent answered yes in 1965, and 88 per cent answered yes in 1972); or whether or not a woman and her doctor alone should decide (66 per cent answered yes in 1972).[151] But, again, none of these issues were framed as rights claims.

Opinion polls suggest that, beginning in the 1970s, Canadians increasingly embraced the underlying principles of human rights policy. The first anti-discrimination legislation in Canada, which banned certain forms of racial discrimination, was in Ontario in 1944. In a poll taken thirty years later, 41 per cent of respondents agreed (35

per cent disagreed) with the statement that immigrants were often discriminated against because "police and courts are not prepared to take a strong stand against discrimination."[152] In 1981, 82 per cent of respondents indicated that they supported affirmative action legislation to prevent discrimination based on race, colour, and ethnicity.[153] And ten years later, in 1991, 20 per cent of Canadians reported that racism was one of the worst social problems in Canada; 47 per cent indicated that it was a fairly serious problem; and 50 per cent believed that racism had increased in Canada over the past five years.[154]

A brief survey of opinion polls since 1998 reveals how Canadians' ideas of rights continue to evolve. Prostitution, parental leave, family status, abortion, sexual orientation, and euthanasia have emerged (or re-emerged) as human rights issues. In 2003, Canadians were split over whether or not allowing civil marriage for same-sex couples was similar to discrimination against people of colour or women.[155] Two years later, a similar poll found that, although a majority of Canadians supported gay rights, 60 per cent still wanted to define marriage as a union between one man and one woman.[156] However, by 2010, 68 per cent of Canadians supported a change in the legal definition of marriage and, in 2011, 70 per cent of Albertans supported the right to same-sex marriage. Canadian attitudes towards abortion have also changed.[157] A majority of Canadians in 2010 (73 per cent), including 83 per cent of Albertans, agreed that abortion was a personal right.[158] And yet it appears that abortion as a rights-claim continues to divide Canadians, and will likely re-emerge as a rights issue in the future: only 55 per cent in 2010, for instance, believed that "there is no point in re-opening the debate."[159] Additional divisive rights issues include prostitution and euthanasia, with polls from 2010

and 2011 indicating that 53 per cent would decriminalize prostitution and 63 per cent support legalizing euthanasia.[160]

Public opinion polls also suggest that rights claims, especially in the context of sex discrimination, are still evolving. Fifty seven per cent of respondents in a 2010 poll stated that Canada has a long way to go to achieve full gender equality.[161] One of the issues was parental leave: 81 per cent of women and 77 per cent of men indicated that they would support policies requiring both mothers and fathers to take parental leave.[162]

Meanwhile, global events continue to influence public opinion. In 2000, individuals were asked about the likelihood of there being reduced prejudice against ethnic and racial minorities in Canada over the next decade: 67 per cent indicated that this was either very likely or somewhat likely to occur.[163] In 2011, however, 74 per cent of respondents agreed with the statement that Canadian society has become less tolerant of others since 9/11, while 60 per cent believed that Muslims in Canada were discriminated against more than before.[164] In addition, 59 per cent of respondents attributed the 9/11 attacks to producing a "negative impression of certain ethnicities and religious faiths."[165] In this way, human rights, although they may evolve over time, are always contested.

Canadian Newspapers

Unsurprisingly, given Canada's recent military interventions abroad and the current war on terror, there has been extensive news coverage on balancing national security with human rights.[166] There have also been lengthy debates in the print media over same-sex

rights and freedom of speech.[167] An initial survey of Canadian print media from 2008 to 2011 further reveals a number of newly emerging human rights claims.[168]

The survey uncovered extensive references to housing as a human right. For instance, in 2011 the Yukon Human Rights Commission recommended that housing be included in the *Human Rights Act*. In the same year renters filed human rights complaints because of neighbours who smoked, or as a result of contentious evictions.[169] Recent media coverage suggests that housing-related human rights issues could become more prominent in the future. For example, the media covered a University of British Columbia study that found that landlords were more likely to discriminate against gays and single parents. There were also several columns suggesting that age restrictions in condominiums constitute discrimination under the provincial *Human Rights Code*.[170]

Among the leading human rights issues in the print media are family status, sexual orientation, sex and age discrimination. For example, in 2011, the families of unmarried soldiers who died in the line of duty used family status to make new claims of discrimination with respect to death benefits.[171] Overall, newspaper coverage suggests that family status is becoming increasingly more prominent as a human rights issue. Sexual orientation remains among the most contentious human rights topics in Canada. A former MP, who believes that sexual orientation is simply a choice, has recently been advocating the removal of sexual orientation from the federal *Human Rights Act*.[172] In what appears to be a return to the debates of the 1990s, there have been concerns surrounding legislation to protect the rights of transgendered people in Canada: one columnist insists that gender identity will need to be clearly defined.[173] The issue of sex discrimination also remains a prominent human rights issue. There was extensive

coverage surrounding a 2008 complaint from female ski jumpers who argued that the ban on female Olympic ski jumping (for the 2010 Vancouver Olympics) constituted sex discrimination.[174] Finally, there has been some coverage regarding the potential for increased age discrimination in employment, given the changing demographics of the labour force.[175]

The media routinely provides coverage of complaints filed with provincial or federal human rights commissions. Some of the complaints that have recently received a great deal of attention include: a Sikh's right to refuse to wear a motorcycle helmet or hard hat; the right for employers to ask employees about mental disabilities, notably depression; sexual orientation and open access to men-only bars; schoolchildren with mental and physical disabilities; parental rights over children's education; racial and ethnic discrimination among the police; women denied the opportunity to compete in sports; sexual discrimination among college instructors; and family status and accommodation of employees with children.[176]

In addition to challenging current understandings of rights and discrimination, many Canadians are advancing entirely new rights claims. The media has brought attention to demands from Aboriginal peoples for environmental rights, mineral rights and access to clean water as a human right.[177] In a recent op-ed column, an Aboriginal woman voiced her support for social and economic rights, and insisted that education, clean water and shelter were fundamental human rights.[178] Breakthroughs in science and technology have also had an impact on rights claims in Canada. A debate is emerging over whether discrimination based on genetic characteristics should be included in human rights legislation. This would prohibit insurers and employers from discriminating based

on genetic background; for instance, denying insurance to an individual with a genetic marker that may lead to Huntington's disease.[179] The Canadian media has also drawn attention to a recent United Nations report, supported by France and Estonia among others, suggesting that internet connectivity is a human right.[180] Technology has widespread ramifications for human rights law. A British Columbia woman, for example, recently won a human rights case after her boss sent her sexually suggestive text messages.[181]

The future of human rights commissions and the way human rights are policed has become a popular topic in the media in recent years, likely as a result of new rights claims.[182] There has been extensive discussion, particularly in editorials and letters to the editor, about the definition of human rights in Canada. One commentator, for example, has argued that human rights should be centred on "quintessential freedoms of thought, speech and the press", whereas another questioned the usefulness of human rights as a concept because it has become a catch-all phrase.[183]

Non-Governmental Organizations

Organizations representing sexual minorities are advancing new rights claims while, at the same time, attempting to protect existing rights. EGALE Canada is currently pursuing the case of Lindsay Willow, a lesbian gym teacher in Halifax who faced workplace harassment.[184] EGALE insists that young people should be free of harassment, regardless of sexual orientation, and suggests that there is a human right to "a safe learning environment, free from harassment."[185] The rights of transgendered people

represent a new generation of rights claims. EGALE supports amendments to human rights legislation that would include "gender identity" and "gender expression" as protected grounds of discrimination: "[a]dding gender identity and gender expression to the *Human Rights Act* tells trans people that they can accept themselves and live in dignity free from discrimination and harassment." Another key issue is equal marriage rights for sexual minorities. Denying equal benefits to these couples constitutes, according to EGALE, a human rights violation.[186]

The Assembly of First Nations (AFN) and the Ontario Coalition Against Poverty (OCAP) are leading advocates for socio-economic rights in Canada today. OCAP, for example, is demanding the release of activists jailed for participating in a roadblock in support of Secwepemc territorial and cultural rights, specifically in relation to the 2001 demolition of homes on Secwepemc territories by Sun Peaks Resort.[187] The organization is also concerned with the rights of the poor with disabilities. A current case involves a person with cerebral palsy who relies on a facilitator to communicate and was recently denied service at a Toronto restaurant.[188] The AFN, meanwhile, has gone to great efforts in recent years to integrate the United Nation's Declaration of the Rights of Indigenous Peoples in its advocacy.[189] The AFN believes that indigenous rights in Canada should be modelled on the Declaration. These rights are divided into three broad categories: the right to self-determination; culture, language and education rights; and land rights and the environment. Perhaps the most prominent issue today is the right to clean water. The AFN, drawing on the language of the Declaration, is currently lobbying to have access to clean water recognized as a human right in Canada. Specifically, they want Canada to

legislate the right to clean and safe drinking water and sanitation.[190] Their advocacy suggests the emergence of access to natural resources as a human right.

NGOs have, as this report has shown, always been in the vanguard of producing new rights claims. Another issue that OCAP is especially concerned with today is the rights of refugees, immigrants and migrant workers. They have framed a recent attempt to deport a Filipino live-in caregiver as a human rights violation. According to OCAP, live-in caregivers are often not informed of their rights when they arrive in Canada, and the federal government has failed to uphold their mobility and family rights. In the case of Eleanora Carag, she faced the prospect "of being permanently separated from [her] Canadian-born child" if deported.[191] According to OCAP, certain groups of people are vulnerable to human rights violations; in this case, the increasing securitization of Canadian borders has led to greater scrutiny of migrant populations since 9/11. Other organizations, such as Vancouver Rape Relief (VRR), are engaged in a similar process of reframing some groups in Canada as uniquely vulnerable. VRR argues that a man's ability to pay for sexual access to other humans often supersedes the right for a woman to not be involved in prostitution.[192] From this perspective, prostitution is a violation of human rights, and women are uniquely vulnerable to this rights violation.

Twenty-first century rights claims are also increasingly consistent with the notion of intersectionality addressed earlier in the report. EGALE Canada has adopted the position that sexual discrimination is a product of an intersection of rights violations based on gender, sexual orientation, race and other factors. According to EGALE, "[s]ocial movements are never completely clearly-cut from each other. One doesn't end neatly before the next one begins."[193] However, at times the intersectionality of rights

claims causes difficulties for NGOs. Section five of the report documents the struggle surrounding human rights and sexual orientation. If there is a comparable issue today, it is transgender. Kimberly Nixon's recent human rights complaint placed women's rights groups in conflict with organizations advocating the rights of sexual minorities. Nixon is a male-to-female trans-identified person who was victimized by a male domestic partner.[194] After receiving support from Battered Women's Support Services, she decided to volunteer her time. When her trans status was discovered, she was asked to leave. She then filed a human rights complaint against the shelter on the basis of trans-discrimination. EGALE endorsed Nixon's complaint, and argued that VRR's policy violated marginalized women. In contrast, VRR argued that it had the right to maintain its own "political" definition of who is a woman.[195] VRR also insisted that a women's shelter had the right to assert its rights collectively, even if that came at the expense of an individual's rights. Moreover, they argued that the incident implied that a more interpretative and contextually relevant understanding of rights, and rights complaints, was needed.[196] The issue was ultimately resolved in the Supreme Court of Canada, which ruled in favour of VRR.

7. Conclusion

The French and American revolutions declared rights to be universal and inalienable. Yet, for nearly two centuries afterwards, rights were severely constrained in the name of nationalism or the "science" of race. But rights-talk contains an implacable inner logic that, although it might be suppressed, never disappears. Key moments in history, from the *French Declaration of the Rights of Man* to the *Universal Declaration of Human Rights* to the *Charter of Rights and Freedoms*, invariably produced opportunities for discussion and debate. Inevitably new rights claims are bound to emerge. "Rights cannot be defined once and for all," historian Lynn Hunt insists, "because their emotional basis continues to shift, in part in reaction to declarations of rights. Rights remain open to question because our sense of who has rights and what those rights are constantly changes. The human rights revolution is by definition unending."[197] In this way, Canadians will continue to face unexpected rights claims.

This report has documented how rights claims have evolved in Canada since the 1940s. When revolutionaries in eighteenth century France had to acknowledge the legitimate claims of oppressed Protestants as consistent with the logic of their own *Declaration of the Rights of Man,* Jews immediately sought to use the same logic to justify freedom for all religious minorities. And recognition of Jews' rights led women to demand the right to vote and own property. "The French Revolution, more than any other event, revealed that human rights have their own inner logic. As the deputies faced the need to turn their lofty ideals into specific laws, they inadvertently developed a kind of conceivability or thinkability scale."[198] Centuries later, the same inner logic undergirded the rights revolution in Canada. The first anti-discrimination laws may have been largely

ineffective, but they established the foundation for further rights claims: Ontario's 1951 *Fair Employment Practices Act* recognized racial, religious and ethnic discrimination; British Columbia's 1974 *Human Rights Code* further recognized discrimination on the basis of sex, marital status and nationality; the 1977 federal *Human Rights Act* further recognized pardoned conviction, privacy, marital status, and physical disability, while sex discrimination had expanded to include pregnancy, equal pay for work of equal value, and sexual harassment; the *Charter of Rights and Freedoms* further recognized language rights, education, Aboriginal peoples rights, and multiculturalism. By the end of the twentieth century, Canadians' human rights lexicon included sexual orientation, family status, physical and mental disability, and concepts such as duty to accommodate. And the inner logic of human rights continues to facilitate further rights claims. Public discourse surrounding human rights today, such as the claims to the right to clean water or leisure time, has extended far beyond what was envisioned in the 1940s.

Social movements have been at the forefront of not only imagining new rights claims, but also vigorously pursuing such claims. Social movements are a barometer for tracking evolving ideas of human rights. In the 1960s, it was women's groups campaigning against sexual harassment and for equal pay; in the 1990s it was LGBT organizations linking rights to marriage; today, it is Aboriginal peoples organizations campaigning for the right to clean water. Foreign policy is another indicator. As this report demonstrates, there is an interactive process between domestic rights claims and international politics. As Canada became increasingly active in the promotion of human rights abroad – from sanctions to ratifying treaties – these developments spurred action at home and armed activists with tools for making claims against the state. In turn, this

prompted the state to become more active abroad. Canada had rejected the UDHR in 1948, but by the 1970s was one of the most vocal advocates for international human rights law.[199]

Politics and law are two other indicators of emerging rights claims. Canada's political culture in the 1940s was deeply rooted in the British tradition of civil liberties, as well as the principle of Parliamentary supremacy. Constitutional debates not only became forums for challenging these traditions, but also for advancing new rights claims. Moreover, human rights laws and commissions have been forums for facilitating the emergence of new conceptions of human rights. Citizens appropriate the language of rights, and then make claims on the state through human rights agencies. As long as human rights commissions exist, citizens will turn to these agencies for redress when they believe they have been treated unfairly. When the first anti-discrimination laws were passed, there was no public debate whatsoever surrounding gay rights. By the 1970s, federal and provincial governments had to rebuff demands to recognize sexual orientation in their respective human rights laws. Finally, by 1998, unable to resist the logic that sexual minorities were entitled to the same equal treatment as other minorities, discrimination on the basis of sexual orientation was banned in law throughout Canada.

In this way, it is unsurprising that economic and social rights appear to be at the forefront of new rights claims today. In the 1950s, even organized labour did not insist on entrenching such rights in the constitution. It became an issue during the Charter debates, albeit not in a serious way. In the twenty-first century, however, campaigns for economic and social rights naturally built upon the foundations of all other successful rights claims to challenge our common sense notions of human rights.

Appendix

The following is a summary of the issues or rights claims cited in this report.

Fundamental Freedoms

Freedom of speech

Freedom of association

Freedom of assembly

Freedom of religion

Freedom of the press

Due process

Voting

Mobility

Discrimination

Race or colour

Ethnicity or nationality

Ancestry or place of origin

Religion

Age

Sex (including pregnancy)

Sexual harassment

Marital status

Political belief

Assignment or seizure of pay

Language

Social condition

Source of income

Pardoned conviction

Physical or mental disability

Dependence on alcohol or drugs

Sexual orientation

Family status

Rights in Public Debate by the 1990s

Equal pay/work of equal value

Privacy (surveillance; information; wiretapping)

Access to information

Children's security and protection

Free public education (including religious education and linguistic)

Learning and training

Annual income

Parental leave

Free and quality child/day care

Abortion

Healthy working conditions

Adequate standard of living

Maintain culture

Social assistance

Employment

Exploitation of the aged or infirm

Accessible transportation, housing, and public institutions

Family reunification

Free movement of people

Affirmative action or equal opportunity

Ethnic minority language rights

Retention of culture

State-funded religious schools (and hospital or child care)

Free markets and trade

Mobility of persons to pursue a livelihood

Mobility of capital and professional accreditation

Economic independence, meaningful work, and equal participation in public life for women

Health care

Living standards in prisons

Refugees

Minimum standards of housing

Rest and leisure

Paid holidays

Mobility rights for welfare recipients

Minimum wage

Accessible divorce

Self-determination and land-claims for Aboriginal peoples, as well as the right to control natural resources, economic development and education

Language rights and self-determination for French Canadians

Property

Free circulation of goods and services

Gender and participation in sports

New and Reemerging Issues

Euthanasia (the right to die)

Assisted suicide

Leisure

Same-sex marriage

Parental leave

Sexual orientation and state funded religious schools

Family leave and employment

Public transit accessibility

Sexual harassment RCMP

Prostitution

Transgendered (discrimination)

Pornography

Hate crimes

Racial profiling

Social media and sexual harassment

Driving tests for seniors

Burka, hijab and other religious practices

Sexuality, religion and sexual orientation in education

Mandatory retirement

Family status and discrimination for

Safe learning environment, free from harassment, for sexual minorities

Discrimination on the basis of "gender identity" and "gender expression"

Same sex marriage equality rights, including economic benefits

Migrant workers and national security

Aboriginal peoples economic and cultural rights

Natural resources, including clean water

Aboriginal peoples right to self-determination; culture, language and education rights; and land rights and the environment

Place of origin and access to high school sports

Parental rights over children's education

benefits from state agencies (e.g., soldiers death benefits)

Genetic discrimination

Housing as a human right

Housing discrimination: smokers or contentious evictions; gay and single parent renters; age restrictions in condominiums

Discrimination in international sport

Age discrimination and the boomers

Internet connectivity

Education and national identity

Caregivers mobility and family rights

Children with disabilities in public schools

Employers' right to ask about mental disabilities

Sources Cited

Abella, Rosalie Silberman. 1993. "From Civil Liberties to Human Rights: Acknowledging the Differences." Pp. 61-69 in *Human rights in the Ttwenty-First Century: A Global Challenge*, edited by K. E. Mahoney and P. Mahoney. London: Martinus Nijhoff Publishers.

Anderson, Donald. 1986. "The Development of Human Rights Protections in British Columbia." MA Thesis, University of Victoria.

Anderson, Doris. 1996. *Rebel Daughter: An Autobiography*. Toronto: Key Porter Books.

Axelrod, Paul. 1982. *Scholars and Dollars: Politics, Economics and the Universities of Ontario, 1945-1980*. Toronto: University of Toronto Press.

Backhouse, Constance and Leah Cohen. 1978. *The Secret Oppression: Sexual Harassment of Working Women*. Toronto: Macmillan.

Bailey, Peter and Annemarie Devereux. 1998. "The Operation of Anti-Discrimination Laws in Australia." Pp. 292-318 in *Human Rights in Australian Law: Principles, Practice and Potential*, edited by D. Kinley. Sydney: Federation Press.

Behiels, Michael. 2009. "Canada and the Implementation of International Instruments of Human Rights: A Federalist Conundrum, 1919-1982." in *Framing Canadian Federalism: Historical Essays in Honour of John T Saywell*, edited by D. Anastakis and P. E. Bryden. Toronto: University of Toronto Press.

Berger, Thomas. 1981. *Fragile Freedoms: Human Rights and Dissent in Canada*. Toronto: Clarke-Irwin.

Berlin, Isaiah. 1969. *Four Essays on Liberty*. London: Oxford University Press.

Bickenback, Jerome. 1993. *Physical Disability and Social Policy*. Toronto: University of Toronto Press.

Bissoondath, Neil. 2002. *Selling Illusions: The Cult of Multiculturalism*. Toronto: Penguin.

Blake, Raymond. 2008. *From Rights to Needs: A History of Family Allowances in Canada, 1929-92*. Vancouver: UBC Press.

Byrnes, Andrew, Hilary Charlesworth, and Gabrielle McKinnon. 2009. *Bills of Rights in Australia: History, Politics and Law*. Sydney: UNSW Press.

Canada. 1960. "Special Committee on Human Rights and Fundamental Freedoms." Ottawa: Queen's Printer.

—. 1972. "Special Joint Committee of the Senate and House of Commons on the Constitution of Canada- First Report." Ottawa: Queen's Printer.

Clarke, Frank K. 2000. "Debilitating Divisions: The Civil Liberties Movement in Early Cold War Canada, 1946-8." Pp. 171-187 in *Whose National Security? Surveillance and the Creation of Enemies in Canada*, edited by G. Kinsman. Toronto: Between the Lines.

Clément, Dominique. 2000. "The Royal Commission on Espionage and the Spy Trials of 1946-9: A Case Study in Parliamentary Supremacy." *Journal of the Canadian Historical Association* 11:151-172.

—. 2001. "Spies, Lies and a Commission, 1946-8: A Case Study in the Mobilization of the Canadian Civil Liberties Movement." *Left History* 7:53-79.

—. 2004. "'It is Not the Beliefs but the Crime that Matters:' Post-War Civil Liberties Debates in Canada and Australia." *Labour History (Australia)* May:1-32.

—. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press.
—. 2008b. "'I Believe in Human Rights, Not Women's Rights': Women and the Human Rights State, 1969-1984." *Radical History Review* 101:107-129.
—. 2008c. "The October Crisis of 1970: Human Rights Abuses Under the War Measures Act." *Journal of Canadian Studies* 42:160-186.
—. 2009. "Generations and the Transformation of Social Movements in Post-war Canada." *Histoire Sociale/Social History* 42:361-388.
Cook, Ramsay. 1974. "Canadian Freedom in Wartime." Pp. 37-54 in *His Own Man: Essays in Honour of A.R.M. Lower*, edited by W. H. Heick and R. Graham. Montreal: McGill-Queen's University Press.
Cornish, Mary, Fay Faraday, and Jo-Anne Pickel. 2009. *Enforcing Human Rights in Ontario*. Aurora: Canada Law Books.
Cranston, Maurice. 1973. *What is a Human Right?* New York: Basic Books.
Day, Shelagh. 1977. "Recent Developments in Human Rights." *Labour Relations Bulletin*:16-24.
Donnelly, Jack. 2002. "Genocide and humanitarian intervention." *Journal of Human Rights* 1:93-109.
—. 2003. *Universal Human Rights in Theory & Practice*. New York: Cornell University Press.
Duclos, Nitya. 1993. "Disappearing Women: Racial Minority Women in Human Rights Cases." *Canadian Journal of Women and the Law* 6:25-51.
Frager, Ruth and Carmela Patrias. 2001. "'This is our country, these are our rights': Minorities and the Origins of Ontario's Human Rights Campaigns." *The Canadian Historical Review* 82:1-35.
Fudge, Judy. 1989. "The Effect of Entrenching a Bill of Rights upon Political Discourse: Feminist Demands and Sexual Violence in Canada." *International Journal of the Sociology of Law* 17:445-463.
Gaze, Beth and Melinda Jones. 1990. *Law, Liberty and Australian Democracy*. Sydney: The Law Book Company Ltd.
Gecelovsky, Paul and Tom Keating. 2001. "Liberal Internationalism for Conservatives: The Good Governance Initiative." Pp. 194-207 in *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-1993*, edited by K. R. Nossal and N. Michaud. Vancouer: UBC Press.
Gillies, David. 1996. *Between Principle and Practice: Human Rights in North-South Relations*. Montreal & Kingston: McGill-Queen's University Press.
Gordon, Nancy and Bernard Wood. 1991. "Canada and the Reshaping of the United Nations." *International Journal* 47:479-503.
Greene, Bonnie. 1990. "Canadian Churches and Foreign Policy." Toronto: James Lorimer.
Herman, Didi. 1994. *Rights of Passage: Struggles for Lesbian and Gay Legal Equality*. Toronto: University of Toronto Press.
Hobsbawm, E.J. 1984. "Labour and Human Rights." Pp. 297-316 in *Worlds of Labour: Further Studies in the History of Labour*, edited by E. J. Hobsbawm. London: Weidenfeld and Nicolson.

Howe, Brian. 1993. "Incrementalism and Human Rights Reform." *Journal of Canadian Studies* 28:29-44.
Howe, Brian and David Johnson. 2000. *Restraining Equality: Human Rights Commissions in Canada*. Toronto: University of Toronto Press.
Hunt, Lynn. 2007. *Inventing Human Rights: A History*. New York: WW Norton & Company.
Igartua, José. 2008. *The Other Quiet Revolution: National Identities in English Canada, 1945-1971*. Vancouver: UBC Press.
Ignatieff, Michael. 2000. *The Rights Revolution*. Toronto: House of Anansi Press Ltd.
Iyer, Nitya. 1993. "Categorical Denials: Equality Rights and the Shaping of Social Identity." *Queen's Law Journal* 19:179-207.
Kallen, Evelyn. 2003. *Ethnicity and Human Rights in Canada: A Human Rights Perspective on Ethnicity, Racism and Systemic Inequality*. Don Mills: Oxford University Press.
Keenleyside, T.A. and Patricia Taylor. 1984. *The Impact of Human Rights Violations on the Conduct of Canadian Bilateral Relations: A Contemporary Dilemma*. Toronto: Canadian Institute of International Affairs.
Knopff, Rainer. 1989. *Human Rights and Social Technology: The New War on Discrimination*. Ottawa: Carleton University Press.
Lambertson, Ross. 2005. *Repression and Resistance: Canadian Human Rights Activists, 1930-1960*. Toronto: University of Toronto Press.
MacLennan, Christopher. 2003. *Toward the Charter: Canadians and the Demand for a National Bill of Rights, 1929-1960*. Montreal: McGill-Queen's University Press.
Mandel, Michael. 1994. *The Charter of Rights and the Legislation of Politics in Canada*. Toronto: Thompson Educational Publishing.
Mazower, Mark. 2004. "The Strange Triumph of Human Rights, 1933-1950." *The Historical Journal* 47:379-398.
McChesney, Allan. 1992. "Aboriginal Communities, Aboriginal Rights, and the Human Rights System." Pp. 221-252 in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, edited by A. A. An-Na'im. Pennsylvania: University of Pennsylvania Press.
Mertus, Julie A. 2008. *Human Rights Matters: Local Politics and National Human Rights Institutions*. Stanford: Stanford University Press.
Minow, Martha. 1990. *Making All the Difference: Inclusion, Exclusion and American Law*. Ithaca: Cornell University Press.
—. 1997. *Not Only for Myself: Identity, Politics, and the Law*. New York: New Press.
Nolan, Cathal J. 1985. "The Influence of Parliament on Human Rights in Canadian Foreign Policy." *Human Rights Quarterly* 7:373-390.
—. 1988. "Human Rights in Canadian Foreign Policy." in *Human Rights in Canadian Foreign Policy*, edited by R. O. Matthews and C. Pratt. Kingston and Montreal: McGill-Queen's University Press.
—. 1990. "Reluctant Liberal: Canada, Human Rights and the United Nations." *Diplomacy & Statecraft* 2:281-305.
Nossal, Kim Richard. 1988. "Cabin'd, Cribb'd, Confin'd: Canada's Interests in Human Rights." Pp. 23-45 in *Human Rights in Canadian Foreign Policy*, edited by R. O. Matthews and C. Pratt. Kingston and Montreal: McGill-Queen's University Press.

—. 1994. *Rain Dancing: Sanctions in Canadian and Australian Foreign Policy*. Toronto: University of Toronto Press.
Ontario Human Rights Commission. 1977. "Life Together: A Report on Human Rights in Ontario." Toronto: The Commission.
Pal, Leslie. 1993. *Interests of State: The Politics of Language, Multiculturalism, and Feminism in Canada*. Montreal & Kingston: McGill-Queen's University Press.
Porter, Bruce. 2005. "Twenty years of Equality Rights: Reclaiming Expectations." *Windsor Y.B. Access Justice* 23:145-192.
Pothier, Diane. 2001. "Connecting Grounds of Discrimination to Real People's Real Experiences." *Canadian Journal of Women and the Law* 13:37-73.
Quebec. 1979. "Quebec-Canada: A New Deal." Quebec: Government of Quebec.
Ramos, Howard. 2006. "What Causes Canadian Aboriginal Protest? Examining Resources, Opportunities and Identity, 1951–2000." *Canadian Journal of Sociology* 31:211-235.
—. 2007. "Aboriginal Protest." Pp. 55-70 in *Social Movements,* edited by S. Staggenborg. Toronto: Oxford University Press.
Reif, Linda. 2000. "Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection." *Harvard Human Rights Journal* 13:1-69.
Riddell, Maureen. 1978-9. "The Evolution of Human Rights Legislation in Alberta, 1945-1979." Edmonton: Government of Alberta.
Rights, International Council on Human. 1999. "Performance and Legitimacy: National Human Rights Institutions."
Schabas, William A. 1998. "Canada and the Adoption of the Universal Declaration of Human Rights." *McGill Law Journal* 43:403-444.
Sellars, Kirsten. 2002. *The Rise and Rise of Human Rights*. Phoenix Mill: Sutton Publishing.
Soohoo, Cynthia, Catherine Albisa, and Martha F Davis. 2008. "Bringing Human Rights Home: A History of Human Rights in the United States." Westport: Praeger.
Spigelman, James. 2008. *Statutory Interpretation and Human Rights*. Queensland: University of Queensland Press.
Tarnopolsky, Walter Surma. 1982. *Discrimination and the Law in Canada*. Toronto: De Boo.
Teeple, Gary. 2005. *The Riddle of Human Rights*. New York: Humanity Books.
Walker, James. 1997. *"Race," Rights and the Law in the Supreme Court of Canada: Historical Case Studies*. Toronto: Wilfrid Laurier University Press.
—. 2002. "The ‘Jewish Phase' in the Movement for Racial Equality in Canada." *Canadian Ethnic Studies* 34:1-29.
Warner, Tom. 2002. *Never Going Back: A History of Queer Activism in Canada*. Toronto: University of Toronto Press.
Watson, Don. 1979. *Brian Fitzpatrick: A Radical Life, Sydney*. Sydney: Hale & Iremonger.
Webster, David. 2009. *Fire and the Full Moon: Canada and Indonesia in the Decolonizing World*. Vancouver: UBC Press.

Williams, Cynthia. 1985. "The Changing Nature of Citizen Rights." Pp. 99-132 in *Constitutionalism, Citizenship and Society in Canada*, edited by A. Cairns and C. Williams. Toronto: University of Toronto Press.
Williams, George. 1999. *Human Rights Under the Australian Constitution*. Melbourne: Oxford University Press.
Williams, Shannon. 1998. "Human Rights in Theory and Practice: A Sociological Study of Aboriginal Peoples & the New Brunswick Human Rights Commission, 1967-1997." Sociology, University of New Brunswick.
Yalden, Maxwell. 2009. *Transforming Rights: Reflections from the Front Lines*. Toronto: University of Toronto.

Newspaper Articles and Opinion Polls

Angus Reid Public Opinion. 2010. *Gender Equality Still Elusive in Four Developed Nations*. Poll retrieved 12 November 2011, from http://www.visioncritical.com/wp-content/uploads/2010/04/2010.04.19_Gender.pdf.
—. 2010. *Majority of Canadians Support Legalizing Euthanasia*. Poll retrieved 12 November, 2011, from http://www.angus-reid.com/country/canada/.
—. 2010. *Most Canadians Unaware of Lack of Restrictions on Abortions*. Poll retrieved 12 November 2011, from http://www.visioncritical.com/category/global-opinions-and-trends.
—. 2011. *Canadians Remain Divided on How to Deal with Prostitution*. Poll retrieved 12 November 2011, from http://www.angus-reid.com/country/canada/.
Asper, Gail. "We need to understand where we came from." The Ottawa Citizen, 18 January 2011, A11.
Boyle, Theresa. "Genetic discrimination by insurers under debate." Toronto Star, 18 May 2011, A4.
Brethour, Patrick. "Olympic dreams of female ski jumpers take flight." The Globe and Mail, 7 January 2008, A1.
Brewster, Murray. "More single soldiers' families allege death-benefit discrimination." The Globe and Mail, 1 December 2011.
Canadian Institute of Public Opinion/Gallup. 1949. *Canadian Gallup Poll 191*. Poll retrieved 1 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research
—. 1955. *Canadian Gallup Poll 243*. Poll retrieved 1 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research
—. 1960. *Canadian Gallup Poll 281*. Poll retrieved 1 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.
—. 1962. *Canadian Gallup Poll 298*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research
—. 1965. *Canadian Gallup Poll 312, Elections/Life*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research
—. 1968. *Canadian Gallup Poll 331*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.

—. 1972. *Canadian Gallup Poll 355*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.
Cerf, Vinton. "Internet access is not a human right." The New York Times, 4 January 2012.
Citizen Society Research Lab/Lethbridge College. 2011. *Albertans' Opinion Structure on Six Policy Issues*. Poll retrieved 10 November 2011, from http://www.lethbridgecollege.ca/about-us/applied-research-innovation/citizen-society-research-lab.
Compass/National Post/Global Television. 2005. *Same-sex: Public Embraces Gay Rights, Opposes Gay Marriage, Advocates National Referendum*. Poll retrieved 6 November 2011, from http://www.compass.ca.
Crone, Joyce, "Enough is enough." Waterloo Region Record, 2 December 2011.
CROP Inc./Canadian Human Rights Commission. 1981. *Selected tables from a survey of public opinion on human rights*. Ottawa: Canadian Human Rights Commission.
Decima Research. 1981. *Decima Quarterly 8, December 1981*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University.
Duggan, Evan. "Gay renters face discrimination." Vancouver Sun, 27 August 2011, A6.
Environics Research/CORA. 2000. *Environics Focus Canada 2000*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University.
—. 2010. *Environics Focus Canada 2010*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University
Farber, Bernie. "In defence of our human rights defenders." The Ottawa Citizen, 1 November 2011, A13.
Fekete, Jason. "Wildrose preps policy at annual convention." Calgary Herald, 26 June 2011, A4.
Friesen, Joe. "Native chief seeks help of Venezuela's Chavez." The Globe and Mail, 17 April 2008, A08.
Geist, Michael. "Is Internet connectivity a human right?" Toronto Star, 19 June 2011, A13.
GPC Research/CORA. 2003. *Listening to Canadians, Fall 2003a*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University.
Hall, Neal. "Mental health questions discriminatory." The Vancouver Sun, 19 July 2011, A1.
Hiltz, Robert, "Parents fight for soldiers' death benefits." The Gazette, 2 December 2011, A2.
Howlett, Karen. "Natives halt talks over mineral rights." The Globe and Mail, 19 March 2008, A04.
Ipsos-Reid. 1991. *National Angus Reid Poll, July 1991 [Canada]*. Poll retrieved 5 November 2011, from the Canadian Opinion Research Archive/Queens University.
—. 2011. *Three Quarters (74%) Believe Canadian Society Less Tolerant of Others Since 9/11 Terrorist Attacks*. Poll retrieved 10 November 2011, from http://www.ipsos-na.com/news-polls/.

Koring, Paul. “Charter covers prisoners, court told.” The Globe and Mail, 26 January, 2008, A17.
Leblanc, Daniel. “Tories, Liberals act on new security legislation.” The Globe and Mail, 5 February 2008, A08.
Makin, Kirk. “He did laps at 110 km/h to prove turban held tight.” The Globe and Mail, 15 February 2008, A01.
Makin, Kirk. “Racial taunts cost Mounties $500,000.” The Globe and Mail, 17 April 2008, A01.
Mason, Gary. “Hard hats and worker safety should trump turbans in sawmill.” The Globe and Mail, 3 April 2008, A08.
Mettei, Mona. “B.C. high school volleyball politics spur human-rights complaint.” The Vancouver Sun, 10 December 2011, A13.
Murphy, Rex. “Vivre le Canada libre.” The Globe and Mail, 12 April 2008, R07.
No author. “$30,000 awarded in texting case.” The Vancouver Sun, 18 February 2011, A6.
—. “Adult-only provision shouldn’t be in declaration.” Toronto Star, 3 December 2011, H14.
—. “Commission plans events for special day”. Whitehorse Star, 1 December 2011, 5.
—. “Father of diabetic boy files rights complaint.” Times – Colonist, 10 August 2011, A4.
—. “Freedom of speech.” Calgary Herald, 14 October 2010, A24.
—. “I shouldn’t have to fight for my education, says teen with Tourette’s syndrome.” Toronto Star, 11 December 2011.
—. “It’s disability awareness week.” The Bugle-Observer, 3 June 2011, A4.
—. “Men-only gay bar settles complaint with woman.” The Globe and Mail, 30 April 2008, A08.
—. “Need to ‘educate the world, B.C. chief says.” The Globe and Mail, 18 April 2008, A04.
—. “New Premier may rethink parent rights.” National Post, 6 October 2011.
—. “Rights in the real world.” Wainwright Star, 25 January 2011, 1.
—. “Second police officer files complaint against Oak Bay department.” The Vancouver Sun, 4 March 2011, A4.
—. “She’s just not the right ‘fit’ for us.” The Gazette, 21 May 2011, F17.
—. “Smoking neighbour human-rights case moves forward in B.C.” Alberni Valley Times, 12 August, 2011, A5;
—. “Special protection for gay people rejected by former Conservative MP.” Daily Bulletin, 13 May 2011, 15.
—. “The Charter’s breaking point.” The Globe and Mail, 29 January 2008, A16.
—. “The rights to our water.” This Week, 28 April 2011.
—. “Web-based hate activity on the rise.” The Gazette, 12 April 2011, A6.
—. “What’s ‘normal’ in matters of sex, anyway?” Times Colonist, 13 February 2011, D2.
—. “Woman denies she has health issues, continues fight against CN dismissal.” Edmonton Journal, 27 February 2011, A5.
Oke, Chris. “Supreme Court upholds human rights ruling.” Whitehorse Star, 5 December 2011, 5.

Sekeres, Matthew. “Quoth the Eagle: Female jumpers not ready to soar.” The Globe and Mail, 18 January 2008, A3.
Weisleder, Mark. “Pot-smoking tenant may be hard to evict.” Toronto Star, 2 December 2011.
Wente, Margaret. “Free speech has to be for everyone.” The Globe and Mail, 12 February 2008, A21.
York University. 1977. *Social Change in Canada, 1977*. Poll retrieved 5 November 2011, from the Canadian Opinion Research Archive/Queens University.

Notes

[1] Donnelly, Jack. 2003. *Universal Human Rights in Theory & Practice*. New York: Cornell University Press.
[2] This definition of human rights was offered by E.J. Hobsbawm: Hobsbawm, E.J. 1984. "Labour and Human Rights." Pp. 297-316 in *Worlds of Labour: Further Studies in the History of Labour*, edited by E. J. Hobsbawm. London: Weidenfeld and Nicolson.
[3] Evelyn Kallen provides a detailed discussion of universal human rights principles in chapter one: Kallen, Evelyn. 2003. *Ethnicity and Human Rights in Canada: A Human Rights Perspective on Ethnicity, Racism and Systemic Inequality*. Don Mills: Oxford University Press.
[4] Hobsbawm, E.J. 1984. "Labour and Human Rights." Pp. 297-316 in *Worlds of Labour: Further Studies in the History of Labour*, edited by E. J. Hobsbawm. London: Weidenfeld and Nicolson.
[5.] Minow, Martha. 1990. *Making All the Difference: Inclusion, Exclusion and American Law*. Ithaca: Cornell University Press.
[6.] Teeple, Gary. 2005. *The Riddle of Human Rights*. New York: Humanity Books.
[7.] The right to self-determination in the ICCPR (1.1) requires some recognition of the economic, social and cultural rights in the ICESCR; the right to family is enshrined in both the ICCPR (23.2) and the ICESCR (23.2); and, the right to join a union in the ICCPR (10.1) is also entrenched in the ICESCR (8.1). Categorizing rights is therefore an artificial exercise at best and we should appreciate that these boundaries "can obviously be blurred and quite arbitrary." Williams, George. 1999. *Human Rights Under the Australian Constitution*. Melbourne: Oxford University Press.
[8] Berlin, Isaiah. 1969. *Four Essays on Liberty*. London: Oxford University Press.
[9.] Bickenback, Jerome. 1993. *Physical Disability and Social Policy*. Toronto: University of Toronto Press. Isaih Berlin, one of the most renowned philosophers on liberal rights, insisted that "to offer political rights, or safeguards against intervention by the state, to men who are half-naked, illiterate, underfed, and diseased is to mock their condition; they need medical help or education before they can understand, or make use of, an increase in their freedom." Berlin, Isaiah. 1969. *Four Essays on Liberty*. London: Oxford University Press, Cranston, Maurice. 1973. *What is a Human Right?* New York: Basic Books.As Supreme Court of Canada justice Rosalie Abella once noted, "human rights start where civil liberties end. ... [H]uman rights are not only about civil liberties' emphasis on individuals in their relationship with the State, they are more emphatically about individuals in their relationship to one another, relationships that invoke the State's intervention and assistance, and request different treatment to narrow the gap." Abella, Rosalie Silberman. 1993. "From Civil Liberties to Human Rights: Acknowledging the Differences." Pp. 61-69 in *Human rights in the Ttwenty-First Century: A Global Challenge*, edited by K. E. Mahoney and P. Mahoney. London: Martinus Nijhoff Publishers.
[10] Donnelly, Jack. 2003. *Universal Human Rights in Theory & Practice*. New York: Cornell University Press.
[11.] "The preoccupation with procedural equality in the 1950s centred on equality before the law. ... During the 1960s and later, however, popular equality claims turned to more substantive concerns, and a new focus on equality of opportunity included the demand that citizens be guaranteed equal benefits from society." Williams, Cynthia. 1985. "The Changing Nature of Citizen Rights." Pp. 99-132 in *Constitutionalism, Citizenship and Society in Canada*, edited by A. Cairns and C. Williams. Toronto: University of Toronto Press.
[12.] Ignatieff, Michael. 2000. *The Rights Revolution*. Toronto: House of Anansi Press Ltd.
[13] Statutes of Canada, The Constitution Act, 1982, being Schedule B to the Canada Act 1982, 1982, c.11.
[14.] Cook, Ramsay. 1974. "Canadian Freedom in Wartime." Pp. 37-54 in *His Own Man: Essays in Honour of A.R.M. Lower*, edited by W. H. Heick and R. Graham. Montreal: McGill-Queen's University Press.
[15] For a general history of discrimination in Canada, see Lambertson, Ross. 2005. *Repression and Resistance: Canadian Human Rights Activists, 1930-1960*. Toronto: University of Toronto Press, Walker, James. 1997. *"Race," Rights and the Law in the Supreme Court of Canada: Historical Case Studies*. Toronto: Wilfrid Laurier University Press.
[16] Statutes of Ontario, The Racial Discrimination Act, 1944, 1944, c.51.
[17] Clément, Dominique. 2000. "The Royal Commission on Espionage and the Spy Trials of 1946-9: A Case Study in Parliamentary Supremacy." *Journal of the Canadian Historical Association* 11:151-172, —. 2001.

"Spies, Lies and a Commission, 1946-8: A Case Study in the Mobilization of the Canadian Civil Liberties Movement." *Left History* 7:53-79.

[18] Similar powers were used in 1970 during the October Crisis. On the October Crisis, see —. 2008c. "The October Crisis of 1970: Human Rights Abuses Under the War Measures Act." *Journal of Canadian Studies* 42:160-186.

On the Gouzenko Affair, including media coverage, Parliamentary debates and the contribution of civil liberties associations, see: —. 2000. "The Royal Commission on Espionage and the Spy Trials of 1946-9: A Case Study in Parliamentary Supremacy." *Journal of the Canadian Historical Association* 11:151-172, —. 2001. "Spies, Lies and a Commission, 1946-8: A Case Study in the Mobilization of the Canadian Civil Liberties Movement." *Left History* 7:53-79. http://www.HistoryOfRights.com

[20] The statute also made reference to creed and colour. Statutes of Saskatchewan, *An Act to Protect Certain Civil Rights*, 1947, c.35.

[21] According to F.P. Varcoe, a future federal Minister of Justice: "A right connotes a corresponding duty in some other person or the state toward the person holding the right; for example, if a person has a right to education, there is a corresponding duty on the state to provide it. A freedom, on the other hand, is a benefit or advantage which a person derives from the absence of legal duties imposed upon him." Canada, 1947. *Special Joint Committee of the Senate and the House of Commons on Human Rights and Fundamental Freedoms*, 132.

[22.] Canada. 1960. "Special Committee on Human Rights and Fundamental Freedoms." Ottawa: Queen's Printer.

[23.] Ibid.

[24] In justifying his government's decision to unilaterally suspend the rights of suspected spies in 1946, Minister of Justice J. L. Ilsley claimed that "those principles resulting from Magna Carta, from the Petition of Rights, the Bill of Settlement and Habeas Corpus Act, are great and glorious privileges; but they are privileges which can be and which unfortunately sometimes have to be interfered with by the actions of Parliament or actions under the authority of Parliament." Canada, *Hansard Parliamentary Debates*, 1947, vol.4, 3214-6. One of the country's leading constitutional experts in the 1970s, Walter Tarnopolsky, suggested at the time that the decision to avoid the American experience with a Bill of Rights was "not surprising if one considers the traditions and training of those who were lawyers amongst the Fathers of Confederation. If they were asked what our fundamental freedoms included, they would have referred to speech, press, religion, assembly, association, probably such legal rights as right to habeas corpus and to a fair public trial. Perhaps they would have stressed the rule of law in its terms as a principle of the British constitution, and perhaps they would have emphasized freedom of contract and rights to property." Library and Archives Canada [LAC], Walter Tarnopolsky Papers, MG31 E55, vol.31, f.14, speech before the Conference of Human Rights Ministers in Victoria, 8 November 1974.

[25] MacLennan, Christopher. 2003. *Toward the Charter: Canadians and the Demand for a National Bill of Rights, 1929-1960*. Montreal: McGill-Queen's University Press. In Ilsley's view, a bill of rights threatened to Americanize the Canadian political system. Canada, *Hansard Parliamentary Debates*, 1947, vol.4, 3215.

[26] On the history of the first civil liberties groups in Canada, see Lambertson, Ross. 2005. *Repression and Resistance: Canadian Human Rights Activists, 1930-1960*. Toronto: University of Toronto Press.

[27] Clément, Dominique. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press.

[28] Lambertson, Ross. 2005. *Repression and Resistance: Canadian Human Rights Activists, 1930-1960*. Toronto: University of Toronto Press.

[29] Statutes of Ontario, The Fair Employment Practices Act, 1951, 1951, c.24; Statutes of Ontario, The Fair Accommodation Practice Act, 1954, 1954, c.28; Statutes of Ontario, The Female Employees Fair Remuneration Act, 1951, 1951, c.26.

[30] Quote in Walker, James. 2002. "The 'Jewish Phase' in the Movement for Racial Equality in Canada." *Canadian Ethnic Studies* 34:1-29.

[31] Ernest Manning to Michel Gouault (United Council for Human Rights), 8 June 1964, LAC, Jewish Labour Committee fonds, MG28 V75, volume 36, file 14. See also: Riddell, Maureen. 1978-9. "The Evolution of Human Rights Legislation in Alberta, 1945-1979." Edmonton: Government of Alberta.

[32] Statutes of British Columbia, Fair Employment Practices Act, 1956, c.16. April D. Katz, Chief of Compliance, Human Rights Branch, Ministry of Labour. *Human Rights and Employment in British Columbia*, n.d. Private Collection.

[33] Editorial. “Discrimination and the Law.” Toronto Star, 3 August 1961.
[34] Clément, Dominique. 2008b. "‘I Believe in Human Rights, Not Women’s Rights’: Women and the Human Rights State, 1969-1984." *Radical History Review* 101:107-129 Tarnopolsky, Walter Surma. 1982. *Discrimination and the Law in Canada*. Toronto: De Boo. Clément, Dominique. 2008b. "‘I Believe in Human Rights, Not Women’s Rights’: Women and the Human Rights State, 1969-1984." *Radical History Review* 101:107-129, Tarnopolsky, Walter Surma. 1982. *Discrimination and the Law in Canada*. Toronto: De Boo.
[35] Frager, Ruth and Carmela Patrias. 2001. "‘This is our country, these are our rights': Minorities and the Origins of Ontario's Human Rights Campaigns." *The Canadian Historical Review* 82:1-35.
[36] The resolution read as follows: “Fair Accommodation. WHEREAS there is concern caused by the practice of some proprietors, withholding service from groups or individuals because of race, colour, religion or national origin, and WHEREAS it is desirable that democratic nations make a concerted effort to remove every vestige of discrimination, and WHEREAS it is increasingly apparent that the law has a role in combating discrimination THEREFORE BE IT RESOLVED: That the Vancouver Council of Women request the Provincial Council of Women, to petition the British Columbia legislature to introduce appropriate legislation to prohibit discrimination in places supplying accommodation and services to the general public.” British Columbia Archives, Provincial Council of Women, box 4, file 3, “Submission to Cabinet, 1959.”
[37] Walker, James. 2002. "The ‘Jewish Phase' in the Movement for Racial Equality in Canada." *Canadian Ethnic Studies* 34:1-29.
[38] As quoted in Schabas, William A. 1998. "Canada and the Adoption of the Universal Declaration of Human Rights." *McGill Law Journal* 43:403-444. Schabas also notes: “A 112-paragraph document entitled "Views of Canada on Matters Before the United Nations" prepared by External Affairs bureaucrats for the Assembly did not even mention the Declaration.”
[39] Nossal, Kim Richard. 1988. "Cabin'd, Cribb'd, Confin'd: Canada's Interests in Human Rights." Pp. 23-45 in *Human Rights in Canadian Foreign Policy*, edited by R. O. Matthews and C. Pratt. Kingston and Montreal: McGill-Queen's University Press.
[40] Nolan, Cathal J. 1990. "Reluctant Liberal: Canada, Human Rights and the United Nations." *Diplomacy & Statecraft* 2:281-305.
[41] “For the most part, however, foreign policy reflected a commitment to state sovereignty and a willingness to accept, if not respect different values and traditions, and different state practices. It also supported the view that interventions for whatever reasons constituted violations of international order and should not be condoned.” Gecelovsky, Paul and Tom Keating. 2001. "Liberal Internationalism for Conservatives: The Good Governance Initiative." Pp. 194-207 in *Diplomatic Departures: The Conservative Era in Canadian Foreign Policy, 1984-1993*, edited by K. R. Nossal and N. Michaud. Vancouer: UBC Press.
[42] Nolan, Cathal J. 1990. "Reluctant Liberal: Canada, Human Rights and the United Nations." *Diplomacy & Statecraft* 2:281-305.
[43] Several studies on the history of human rights have concluded that, until the 1970s, the Cold War had a dampening effect on human rights progress. Mazower, Mark. 2004. "The Strange Triumph of Human Rights, 1933-1950." *The Historical Journal* 47:379-398, Sellars, Kirsten. 2002. *The Rise and Rise of Human Rights*. Phoenix Mill: Sutton Publishing. Clarke, Frank K. 2000. "Debilitating Divisions: The Civil Liberties Movement in Early Cold War Canada, 1946-8." Pp. 171-187 in *Whose National Security? Surveillance and the Creation of Enemies in Canada*, edited by G. Kinsman. Toronto: Between the Lines, Clément, Dominique. 2004. "'It is Not the Beliefs but the Crime that Matters:' Post-War Civil Liberties Debates in Canada and Australia." *Labour History (Australia)* May:1-32, —. 2008a. *Canada’s Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press, Gordon, Nancy and Bernard Wood. 1991. "Canada and the Reshaping of the United Nations." *International Journal* 47:479-503, Lambertson, Ross. 2005. *Repression and Resistance: Canadian Human Rights Activists, 1930-1960*. Toronto: University of Toronto Press, Watson, Don. 1979. *Brian Fitzpatrick: A Radical Life, Sydney*. Sydney: Hale & Iremonger.
[44] Clarke, Frank K. 2000. "Debilitating Divisions: The Civil Liberties Movement in Early Cold War Canada, 1946-8." Pp. 171-187 in *Whose National Security? Surveillance and the Creation of Enemies in Canada*, edited by G. Kinsman. Toronto: Between the Lines.

[45] Statutes of Ontario, The Ontario Human Rights Code, 1961-62, 1961-62, c.93. The Human Rights Commission was, in fact, created in 1961 to enforce the laws in existence before the Human Rights Code was passed in 1962.
[46] Walker, James. 2002. "The 'Jewish Phase' in the Movement for Racial Equality in Canada." *Canadian Ethnic Studies* 34:1-29.
[47] Cornish, Mary, Fay Faraday, and Jo-Anne Pickel. 2009. *Enforcing Human Rights in Ontario*. Aurora: Canada Law Books.
[48] The 1960 federal *Bill of Rights* banned sex discrimination, and the first provinces to ban discrimination on the basis of sex were British Columbia and Newfoundland, both in 1969.
[49] For a history of Canada's human rights movement, see Clément, Dominique. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press.
[50] A similar divide emerged in the United States, although in this case it was a conceptual divide between "civil rights" and "human rights" (rather than civil liberties and human rights). See Soohoo, Cynthia, Catherine Albisa, and Martha F Davis. 2008. "Bringing Human Rights Home: A History of Human Rights in the United States." Westport: Praeger.
[51] For a complete history of the debates surrounding the federal Bill of Rights, see Clément, Dominique. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press, MacLennan, Christopher. 2003. *Toward the Charter: Canadians and the Demand for a National Bill of Rights, 1929-1960*. Montreal: McGill-Queen's University Press.
[52] Frank Scott to Gordon Dowding, 20 September 1964, vol. 47, LAC, Frank Scott Papers, MG30, D211.
[53] Canada. 1972. "Special Joint Committee of the Senate and House of Commons on the Constitution of Canada- First Report." Ottawa: Queen's Printer.
[54] There was a new emphasis placed on language rights, which was addressed by each province before the committee. Canada, 1970. Special Joint Committee on the Constitution of Canada, 3-68 to 3-133.
[55] "The government of Manitoba believes that the constitution would be incomplete if it did not recognize the duty of governments to ensure humane standards of social welfare and other important social and economic benefits for all Canadians. The need for such benefits and the ability of governments to meet them will vary considerably from time to time, of course, but the constitution ought, in it preamble, to state that the fulfilment of this duty is one of the objectives of Canadian federalism." Canada, 1970. Special Joint Committee on the Constitution of Canada, 3:112; 3:133
[56] The NDP members of the committee, Andrew Brewin and Douglas Rowland, challenged the proposed protections for private property out of concern that it could be used to undermine workers' rights. Two Members of Parliament from Quebec, Pierre DeBané and Martial Asselin, produced a minority report with a recommendation to recognize the right to self-determination. LAC, Special Joint Committee on the Constitution of Canada, RG14, Acc.1991-92/138, Box 49, Statement by Andrew Brewin and Douglas Rowland on the Report of that Committee, 16 March 1972; A Minority Report by Me Pierre DeBané and Me Martial Asselin, 7 March 1972.
[57] Canada, 1970. Special Joint Committee on the Constitution of Canada, 74:33-87.
[58] Canada, 1970. Special Joint Committee on the Constitution of Canada, 88:6-35.
[59] Canada, 1970. Special Joint Committee on the Constitution of Canada, 62:29-34.
[60] Canada, 1970. Special Joint Committee on the Constitution of Canada, 62:33
[61] Behiels, Michael. 2009. "Canada and the Implementation of International Instruments of Human Rights: A Federalist Conundrum, 1919-1982." in *Framing Canadian Federalism: Historical Essays in Honour of John T Saywell*, edited by D. Anastakis and P. E. Bryden. Toronto: University of Toronto Press.
[62] Canada. Department of External Affairs, 1970. *Foreign Policy for Canadians* (volume 3, United Nations), 26-27.
[63] Statutes of British Columbia, Human Rights Code of British Columbia Act, 1973, c.119.
[64] "Manitoba has similar reasonable clause provisions regarding tenancy and public facilities. Until 1987 Manitoba also had a similar but somewhat weaker formulation for employment, by which stipulated forms of discrimination were prohibited 'without limiting the generality of the foregoing'. This has been replaced by a prohibition of employment discrimination 'unless the discrimination is based upon bona fide and reasonable requirements or qualifications.' The cases brought under the former section in Manitoba were resolved through adjudication, except one, and this case was sustained in the courts." Knopff, Rainer. 1989. *Human Rights and Social Technology: The New War on Discrimination*. Ottawa: Carleton University Press. On human rights laws outside Canada, see Mertus, Julie A. 2008. *Human Rights Matters: Local Politics*

and National Human Rights Institutions. Stanford: Stanford University Press, Reif, Linda. 2000. "Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection." *Harvard Human Rights Journal* 13:1-69.

[65] The one exception to the clause was tenants: it did not apply to people seeking to rent premises as tenants. Rosemary Brown suggested during second reading of the bill that this was because the Law Reform Commission was currently considering the issue. British Columbia, *Debates of the Legislative Assembly*, 1973, 1260.

[66] For example, human rights groups supported censoring pornography; civil liberties groups responded that this constituted a violation of free speech. Human rights groups supported the criminalization of hate speech in Canada in the late 1960s; civil liberties groups also saw this as a restriction on free speech. Human rights organizations supported the creation of a rape shield law in the 1980s (prohibiting any evidence at trial of a victim's sexual history); civil liberties groups successfully fought to have the law overturned as a violation of due process.

[67] Ligue des droits de l'homme, *Les Droits de l'Homme dans la Société Actuelle*, 27 September 1972 (published report).

[68] On social movements and human rights, see Ramos, Howard. 2006. "What Causes Canadian Aboriginal Protest? Examining Resources, Opportunities and Identity, 1951–2000." *Canadian Journal of Sociology* 31:211-235, —. 2007. "Aboriginal Protest." Pp. 55-70 in *Social Movements*, edited by S. Staggenborg. Toronto: Oxford University Press. Clément, Dominique. 2008b. "'I Believe in Human Rights, Not Women's Rights': Women and the Human Rights State, 1969-1984." *Radical History Review* 101:107-129.

[69] Donnelly, Jack. 2002. "Genocide and humanitarian intervention." *Journal of Human Rights* 1:93-109.

[70] The federal government spent several years developing a consultation mechanism with the provinces. Canada became a party to conventions on racial discrimination and women's rights. Over the years, Canada routinely demonstrated its commitments to promoting human rights with interventions in sessions of the Commission on Human Rights and other international forums. Nolan, Cathal J. 1988. "Human Rights in Canadian Foreign Policy." in *Human Rights in Canadian Foreign Policy*, edited by R. O. Matthews and C. Pratt. Kingston and Montreal: McGill-Queen's University Press.

[71] For studies on state funding of human rights initiatives and NGOs in Canada, see Clément, Dominique. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press, Pal, Leslie. 1993. *Interests of State: The Politics of Language, Multiculturalism, and Feminism in Canada*. Montreal & Kingston: McGill-Queen's University Press.

[72] Nolan, Cathal J. 1985. "The Influence of Parliament on Human Rights in Canadian Foreign Policy." *Human Rights Quarterly* 7:373-390.

[73] Ibid.

[74] A private members' bill was introduced in 1975 to prohibit foreign aid to countries with poor human rights records. The bill drew attention to the human rights component of Canadian foreign policy and forced the government to defend and elaborate its aid policies in public. "The point of main interest here is that even though the government opposed this private member's bill its presence on the agenda compelled a public elaboration of policy, and thus contributed to the progressive expansion of a definition of a human rights component in Canada's aid programs. In this way, parliamentary prerogatives were used to assist in the development and promulgation of a general principle of human rights limits to development assistance, a principle which would later be defined in more explicit form in a House committee report." ibid.

[75] On human rights and Canadian foreign policy in Asia, see Webster, David. 2009. *Fire and the Full Moon: Canada and Indonesia in the Decolonizing World*. Vancouver: UBC Press. Still, promoting human rights did not always mean imposing sanctions, which Canada was hesitant to do for economic and political reasons. On sanctions, see Nossal, Kim Richard. 1994. *Rain Dancing: Sanctions in Canadian and Australian Foreign Policy*. Toronto: University of Toronto Press.

[76] "This is the first case in Canada to deal with employment discrimination against a pregnant woman and the B.C. human rights legislation is singularly able to provide protection to pregnant women because Section 8 prohibits discrimination without reasonable cause." Day, Shelagh. 1977. "Recent Developments in Human Rights." *Labour Relations Bulletin*:16-24. Ontario was the first jurisdiction, in 1981, to formally amend its legislation to make sexual harassment discriminatory, and all other jurisdictions had done the same by 1994. However, sexual harassment was first addressed in British Columbia under the reasonable cause provision. On sexual harassment and human rights law, see British Columbia, *Labour Relations Bulletin*, 1976, 69-71; British Columbia, *Labour Relations Bulletin*, 1977, 62-63; British Columbia, *Labour*

Relations Bulletin, 1976, 51-52; British Columbia, *Labour Relations Bulletin*, 1980, 24-25; "Julie Webb v Cyprus Pizza" *Canadian Human Rights Reporter*, Volume 6, Decision 444 (Toronto: Canadian Human Rights Reporter, 1985): D/2794-D2797; Peter Comparelli and Glen Schaefer. "Two Women Sexually Harassed, Inquiries Rule." Vancouver Sun, 28 July 1984.

[77] For a history on the origins of the term "sexual harassment" in Canada, see Backhouse, Constance and Leah Cohen. 1978. *The Secret Oppression: Sexual Harassment of Working Women*. Toronto: Macmillan.

[78] Anderson, Doris. 1996. *Rebel Daughter: An Autobiography*. Toronto: Key Porter Books.

[79] For a list of the specific decisions on the reasonable cause section, see Howe, Brian. 1993. "Incrementalism and Human Rights Reform." *Journal of Canadian Studies* 28:29-44.

[80] Statutes of Canada, Canadian Human Rights Act, 1977, c.33.

[81] On the history of human rights law in Canada, as well as the role of social movements, see Clément, Dominique. 2008b. "'I Believe in Human Rights, Not Women's Rights': Women and the Human Rights State, 1969-1984." *Radical History Review* 101:107-129, Howe, Brian and David Johnson. 2000. *Restraining Equality: Human Rights Commissions in Canada*. Toronto: University of Toronto Press.

[82] According to the former Chairman of the Canadian Human Rights Commission and member to the United Nations Human Rights Committee, the Canadian model had few peers: "It should be noted that it is a particular type of commission that has similar, sister agencies in countries like Australia and New Zealand. But nothing of the sort exists, for example, in France or other European countries, where the model calls for broad-ranging commission with widely representative (and usually numerous) membership that issue comments and criticisms of government activities or failure to act but do not deal with individual complaints as do several Canadian commissions." Yalden, Maxwell. 2009. *Transforming Rights: Reflections from the Front Lines*. Toronto: University of Toronto. Even the Australian system had severe limitations, especially in the 1970s. See Bailey, Peter and Annemarie Devereux. 1998. "The Operation of Anti-Discrimination Laws in Australia." Pp. 292-318 in *Human Rights in Australian Law: Principles, Practice and Potential*, edited by D. Kinley. Sydney: Federation Press, Byrnes, Andrew, Hilary Charlesworth, and Gabrielle McKinnon. 2009. *Bills of Rights in Australia: History, Politics and Law*. Sydney: UNSW Press, Spigelman, James. 2008. *Statutory Interpretation and Human Rights*. Queensland: University of Queensland Press.

[83] "In my view, all of the following factors contribute to the effectiveness of national human rights institutions: the democratic governance structure of the state; the degree of independence of the institution from government; the extent of the institution's jurisdiction; the adequacy of the powers given to the institution, including the power to investigate; the accessibility of the institution to members of the public; the level of cooperation of the institution with other bodies; the operational efficiency of the institution; the accountability of the institution, the personal character of the person(s) appointed to head the institution; the behavior of government in not politicizing the institution and in having a receptive attitude toward its activities; and the credibility of the office in the eyes of the populace." Reif, Linda. 2000. "Building Democratic Institutions: The Role of National Human Rights Institutions in Good Governance and Human Rights Protection." *Harvard Human Rights Journal* 13:1-69. See also Mertus, Julie A. 2008. *Human Rights Matters: Local Politics and National Human Rights Institutions*. Stanford: Stanford University Press. Rights, International Council on Human. 1999. "Performance and Legitimacy: National Human Rights Institutions."

[84] Canada, Standing Committee on Justice and Legal Affairs, 1977, Appendix JLA-1, Statement by the Minister of Justice to Justice and Legal Affairs Committee, 6A:1.

[85] Most of the debate in Parliament and within the committee revolved around the lack of an explicit appeal mechanism to the Federal Court. Another issue was the exemptions under the privacy provisions for access to information. Many of the NGOs were also critical of the wording of the equal pay section, which was ultimately amended before third reading. Six organizations made representations before the Standing Committee on Justice and Legal Affairs: Canadian Labour Congress, Canadian Bar Association, Advisory Council on the Status of Women, National Action Committee on the Status of Women, Canadian Civil Liberties Association and the Canadian Federation of Human Rights and Civil Liberties Association. Among Parliamentarians it was Gordon Fairweather, the future Chairman of the commission, who was the most vocal, especially on the need to add sexual orientation. Canada, *Hansard Parliamentary Debates*, vols.3 and 6, 1976/7, 2975-3412, 6143-6226; Canada, Standing Committee on Justice and Legal Affairs, 1977, 6A to 13A.

[86] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 68, wallet 26.

[87] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 10; box 60, wallet 5; box 62, wallet 10.
[88] The Canadian Consultative Council on Multiculturalism insisted that its members did not want to challenge the status of official languages, but merely compliment them by promoting freedom and equality for all cultures as a human right. LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 9.
[89] The Canadian Catholic School Trustees, for example, sought to ensure their schools' right to expect a Catholic lifestyle from employees. LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 9.
[90] The British Columbia Federation of Labour suggested that prohibiting age discrimination made sense in some cases, but acknowledged that mandatory retirement had a legitimate social function. LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 60, wallet 6.
[91] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 61, wallet 7; box 62, wallet 9; box 62, wallet 10.
[92] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 9.
[93] The demand to recognize a right to learning and training was a response to the feminization of poverty and women's unequal socio-economic status. LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 68, wallet 26; box 68, wallet 26; box 73, wallet 37.
[94] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 10.
[95] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 10. The Canadian Human Rights Commission, the Canadian Teacher Federation and the United Churches of Canada echoed many of these demands. LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 10; box 72, wallet 35.
[96] Ibid.
[97] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 68, wallet 26.
[98] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 61, wallet 8.
[99] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 10.
[100] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 62, wallet 10.
[101] New Brunswick's Human Rights Commission established a 'Native Desk' in 1982, but the commission received fewer than 70 complaints from Aboriginal peoples between 1967 and 1997. Williams, Shannon. 1998. "Human Rights in Theory and Practice: A Sociological Study of Aboriginal Peoples & the New Brunswick Human Rights Commission, 1967-1997." Sociology, University of New Brunswick. Based on a series of interviews with human rights officials, Allan McChesney offers a series of potential explanations for why Aboriginal peoples have avoided using anti-discrimination laws: McChesney, Allan. 1992. "Aboriginal Communities, Aboriginal Rights, and the Human Rights System." Pp. 221-252 in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, edited by A. A. An-Na'im. Pennsylvania: University of Pennsylvania Press.
[102] The federal government introduced a White Paper in 1969 that proposed to eliminate Indian status: "The policies proposed recognize the simple reality that the separate legal status of Indians and the policies which have flowed from it have kept the Indian people apart from and behind other Canadians. The Indian people have not been full citizens of the communities and provinces in which they live and have not enjoyed the equality and benefits that such participation offers." The federal government sought to surrender responsibility for Aboriginal peoples to the provinces, repeal the *Indian Act*, and transfer control of lands to individuals. The policy proposal was widely rejected among Aboriginal peoples, and was ultimately abandoned. Canada, 1969. *Statement of the Government of Canada on Indian Policy*, 5.
[103] —. 1992. "Aboriginal Communities, Aboriginal Rights, and the Human Rights System." Pp. 221-252 in *Human Rights in Cross-Cultural Perspectives: A Quest for Consensus*, edited by A. A. An-Na'im. Pennsylvania: University of Pennsylvania Press, Williams, Shannon. 1998. "Human Rights in Theory and Practice: A Sociological Study of Aboriginal Peoples & the New Brunswick Human Rights Commission, 1967-1997." Sociology, University of New Brunswick.
[104] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 60, wallet 4.
[105] LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 68, wallet 26.
[106] Aboriginal rights also featured prominently in the briefs submitted by other organizations, such as the Anglican Church of Canada, the British Columbia Civil Liberties Association and numerous women's

rights groups. LAC, Special Joint Committee on the Constitution, RG 14, session 1, box 60, wallet 4; box 60, wallet 6;

[107] CROP Inc./Canadian Human Rights Commission. 1981. *Selected tables from a survey of public opinion on human rights*. Ottawa: Canadian Human Rights Commission.

[108] In another poll, 65 per cent of Canadians insisted that the best strategy to protect human rights was to promote public awareness, while only 22 per cent thought that the government should ban specific acts of discrimination; ibid.

[109] Committee on the Constitution, Canadian Bar Association. *Towards a New Canada*. Ottawa: Canadian Bar Association, 1978, 16-17.

[110] Ontario, 1968. *Report of the Royal Commission Inquiry into Civil Rights*; Quebec, Commission of enquiry into the administration of justice on criminal and penal matters in Quebec, 1968. *Crime, Justice and Society, vol.1, fundamental principles of a new social action program*.

[111] Statutes of Canada, *Official Languages Act*, 1969, c.54.

[112] Statutes of Canada, *Criminal Law Amendment Act, 1968-69*, 1968-69, c.38.

[113] Statutes of Canada, *Statute Law (Status of Women) Amendment Act, 1974*, 1974-76, c.66.

[114] Statutes of Quebec, *Youth Protection Act*, 1977, c.20; Statutes of Ontario, *An Act to revise The Child Welfare Act*, 1978, c.85.

[115] Statutes of Canada, *Access to Information Act*, 1980-83, c.111.

[116] True, Canada was hardly above reproach; it continued to support abusive regimes in the 1980s. For instance, Canadian foreign aid was re-introduced for Guatemala and El Salvador, and the federal government provided credit through the Export Development Corporation. Canada still prioritized security and economic interest above human rights. For a critique of Canadian foreign policy (with regards to human rights) see Gillies, David. 1996. *Between Principle and Practice: Human Rights in North-South Relations*. Montreal & Kingston: McGill-Queen's University Press, Keenleyside, T.A. and Patricia Taylor. 1984. *The Impact of Human Rights Violations on the Conduct of Canadian Bilateral Relations: A Contemporary Dilemma*. Toronto: Canadian Institute of International Affairs, Nossal, Kim Richard. 1988. "Cabin'd, Cribb'd, Confin'd: Canada's Interests in Human Rights." Pp. 23-45 in *Human Rights in Canadian Foreign Policy*, edited by R. O. Matthews and C. Pratt. Kingston and Montreal: McGill-Queen's University Press. See also Greene, Bonnie. 1990. "Canadian Churches and Foreign Policy." Toronto: James Lorimer. (in particular, Robin O. Matthews' chapter on bilateral aid). During its brief period as government in 1979, the Conservative Party withheld aid from Vietnam because of gross human rights violations surrounding the expulsion of the "boat people." Nolan, Cathal J. 1985. "The Influence of Parliament on Human Rights in Canadian Foreign Policy." *Human Rights Quarterly* 7:373-390.

[117] No author. "Critics Rap Socreds Over Rights Record." Vancouver Sun, 22 September 1984; No author. "B.C. Rights Move Rapped in Ottawa." The Province, 9 September 1983.

[118] Ken Norman to William Bennett, 2 July 1983,University of British Columbia, Rare Books and Special Collections (RBSC UBC), Solidarity Coalition Papers, f.19-1.

[119] RBSC UBC, Solidarity Coalition Papers, f.19-1, Press Release, CASHRA, 14 July 1983.

[120] Nova Scotia and the federal government had already recognized physical disability as a ground of discrimination by this time in their respective human rights legislation.

[121] The exception was Ontario and Nova Scotia where complaints on the basis of race still predominated, although sex represented the second largest number of complaints in both provinces.

[122] Age discrimination (especially mandatory retirement) and social or economic rights also entered the human rights vernacular in the 1980s. Admittedly, there were no serious attempts to legislate social and economic rights as human rights except for a minor provision in Quebec's human rights statute. Still, the idea that Canadians had a right to a basic standard of living underlaid the justification for the welfare state. Raymond Blake perfectly captures this sentiment in his book on the history of family allowances. According to Blake, it was only beginning in the 1980s when Canadians began to associate family allowances with financial need. From the 1930s to 1970s, this program, which was integral to the welfare state, was seen as a basic right (or entitlement) for citizens. Blake, Raymond. 2008. *From Rights to Needs: A History of Family Allowances in Canada, 1929-92*. Vancouver: UBC Press.

[123] Canada, 1984. *Report of the Commission on Equality in Employment*.

[124] Canada, 1984. *Report of the Commission on Equality in Employment*, 8.

[125] Canada, 1984. *Report of the Commission on Equality in Employment*, 9.

[126] Abella's recommendations were widespread. They addressed issues such as training, childcare, equal pay for work of equal value, creating educational institutions and programs aimed at minorities, programs to help integrate new immigrants (e.g., language training), and monitoring hiring practices or trends.
[127] Howe, Brian and David Johnson. 2000. *Restraining Equality: Human Rights Commissions in Canada*. Toronto: University of Toronto Press.
[128] Quebec. 1979. "Quebec-Canada: A New Deal." Quebec: Government of Quebec.
[129] Once again, the Ligue is an ideal case study on Canadians' evolving ideas of rights. In the 1970s the Ligue became a fervent advocate of Quebeckers' right to self-determination and to make French the predominant language in the province. But these were not among the group's founding principles. See Clément, Dominique. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press, —. 2009. "Generations and the Transformation of Social Movements in Post-war Canada." *Histoire Sociale/Social History* 42:361-388. See also Berger, Thomas. 1981. *Fragile Freedoms: Human Rights and Dissent in Canada*. Toronto: Clarke-Irwin, Igartua, José. 2008. *The Other Quiet Revolution: National Identities in English Canada, 1945-1971*. Vancouver: UBC Press, Ignatieff, Michael. 2000. *The Rights Revolution*. Toronto: House of Anansi Press Ltd, Mandel, Michael. 1994. *The Charter of Rights and the Legislation of Politics in Canada*. Toronto: Thompson Educational Publishing.
[130] Multiculturalism was first recognized as federal policy in 1971, and was later recognized in the Charter of Rights and Freedoms in 1982 before it was given fuller expression in a 1988 federal statute. Bissoondath, Neil. 2002. *Selling Illusions: The Cult of Multiculturalism*. Toronto: Penguin.
[131] As Martha Minow explains, "each person is alone at the unique crossroad of each intersecting group. Each of us is a unique member of the sets of endless groupings that touch us, whether called racial, gender, disability, family, ethnicity, or nationality." Minow, Martha. 1997. *Not Only for Myself: Identity, Politics, and the Law*. New York: New Press.
[132] Diane Pothier offers a personal narrative to more fully explain this point: Pothier, Diane. 2001. "Connecting Grounds of Discrimination to Real People's Real Experiences." *Canadian Journal of Women and the Law* 13:37-73. As Nitya Duclos notes, "it is not hard to see that stereotypes arising from particular combinations of race and gender are often the source of the discriminatory treatment that gives rise to the complaint. … Stereotypes which combine race and gender are common to everyday experience. Race and gender are equally apparent and, together with other visible characteristics, are likely to form part of our initial generalizations about people. It is only when one becomes immersed in the world of law that race and gender are extracted from the whole person and become mutually exclusive categories of discrimination." Duclos, Nitya. 1993. "Disappearing Women: Racial Minority Women in Human Rights Cases." Ibid.6:25-51.
[133] "This notion [intersectionality] refers to the way in which any particular individual stands at the crossroads of multiple groups. All women also have a race; all whites also have a gender. The individuals stand in different places as gender and racial politics converge and diverge. Moreover, the meanings of gender are inflected and informed by race, and the meanings of racial identity are similarly influenced by images of gender." Minow, Martha. 1997. *Not Only for Myself: Identity, Politics, and the Law*. New York: New Press.
[134] Iyer, Nitya. 1993. "Categorical Denials: Equality Rights and the Shaping of Social Identity." *Queen's Law Journal* 19:179-207. Nitya Iyer uses the *Mossop* case to demonstrate her argument. Mossop was a public servant working for the federal government who was denied bereavement leave to attend his partner's father's funeral because his partner was male. According to Iyer, Mossop failed in his appeal to the Supreme Court of Canada because the judges defined family status in terms of variations on heterosexual families, and insisted that Mossop's case fell under the category of sexual orientation, which at the time was not recognized in the federal *Human Rights Act*. In other words, by thinking in terms of categories of discrimination, and defining each category in terms of how they differ from an assumed norm, the court was blind to how Mossop experienced discrimination. Ibid.
[135] For example, a landlord refusing to rent to an inter-racial couple accused of racism might defeat the complaint by showing that he had rented to other racial minorities. If the landlord objected to inter-racial sexual relationships, then only an approach that considered both race and sex would adequately identify the underlying cause, and justify the complaint. According to Nitya Iyer, "as a complainant departs from the norm in an increasing number of directions, it is less and less likely that the conduct complained of will be held to constitute discrimination in law. If the complainant straddles too many categories, she is increasingly likely to lose her balance and fall through the cracks: it is no longer discrimination, it is 'just

her.'" Duclos, Nitya. 1993. "Disappearing Women: Racial Minority Women in Human Rights Cases." *Canadian Journal of Women and the Law* 6:25-51.
[136] Porter, Bruce. 2005. "Twenty years of Equality Rights: Reclaiming Expectations." *Windsor Y.B. Access Justice* 23:145-192.
[137] Instead, the government inserted the reasonable cause provision, which led to the first successful human rights board of inquiry on sexual orientation (the decision was overturned in the Supreme Court of Canada). On the history of the British Columbia Human Rights Code and sexual orientation, including the GATE v Vancouver Sun case, see: Anderson, Donald. 1986. "The Development of Human Rights Protections in British Columbia." MA Thesis, University of Victoria, Clément, Dominique. 2008a. *Canada's Rights Revolution: Social Movements and Social Change, 1937-1982*. Vancouver: UBC Press.
[138] On the history of sexual orientation and human rights law in Ontario, see Herman, Didi. 1994. *Rights of Passage: Struggles for Lesbian and Gay Legal Equality*. Toronto: University of Toronto Press, Warner, Tom. 2002. *Never Going Back: A History of Queer Activism in Canada*. Toronto: University of Toronto Press. The Ontario Human Rights Commission recommended adding sexual orientation to the Code as early as 1977: Ontario Human Rights Commission. 1977. "Life Together: A Report on Human Rights in Ontario." Toronto: The Commission.
[139] The former Minister of Justice and Attorney General for Newfoundland, Lynn Verge, when confronted during a committee hearing in 1990 on the government's decision to not include sexual orientation in 1988, argued that the failure was "because I couldn't get the Cabinet to go along with what I wanted. Basically, the Cabinet as a whole got hung up on a couple of recommendations about extending protection, significantly on extension of protection to gays, and I decided as a matter of political strategy to take a two-step approach, step one, which I accomplished, which was amending the code to change the procedures." Newfoundland House of Assembly, *Hansard*, no.8 (1990), 30; Newfoundland House of Assembly, *Hansard*, vol. 16, no.88 (1990), 22-4. See also Newfoundland House of Assembly, *Hansard*, vol. 1, no.75 (1983), 9577; Newfoundland House of Assembly, *Hansard*, no.8 (1990), 30.
[140] Newfoundland House of Assembly, *Hansard*, vol. 16, no.88 (1990), 22-23. On the cases of discrimination on the basis of sexual orientation in St. John's in 1990 – in one case a man was told to vacate an apartment because the landlord did not want a homosexual living in the building, and in another case a box-boy at a local supermarket was fired when the owner discovered he was gay. Newfoundland House of Assembly, *Hansard*, no.8 (1990), 4-7. In 1993, the Newfoundland Human Rights Commission announced, based on a recent ruling in the Supreme Court of Canada (Haig v Canada), that it would begin investigating cases involving sexual orientation. Warner, Tom. 2002. *Never Going Back: A History of Queer Activism in Canada*. Toronto: University of Toronto Press.
[141] Several provinces made similar amendments between 1987 and 1993. Newfoundland amended its statute in 1997, and Prince Edward Island introduced amendments in 1998. Alberta did not formally amend its legislation until 2010, although the Supreme Court forced the province to apply the law to sexual orientation in practice.
[142] "The minister in charge of the commission defended the appointment with the claim that sexual orientation is voluntarily chosen, and therefore less deserving of protection from discrimination than involuntary characteristics such as race. Persons disclosing their sexual orientation, he contended, should expect discrimination because by flaunting their sexuality they may violate the rights of others." Warner, Tom. 2002. *Never Going Back: A History of Queer Activism in Canada*. Toronto: University of Toronto Press.
[143] Ibid.
[144] Ibid.
[145] Ibid.
[146] Ibid.
[147] According to a *Toronto Star* poll in 1946, 93 per cent of respondents had heard about the Gouzenko Affair, and 61 per cent approved of the government's tactics. Another Gallup poll taken in 1949 asked respondents if they believed in complete freedom of speech and if people should be allowed to say anything at any time about government and the country. Of the 2019 respondents, 36.2 per cent said no and another 15 per cent had no opinion or had a qualified answer. Four years later, another poll found that 62 per cent of respondents favoured limiting the speech of communists and only 26 per cent considered it a fundamental democratic right. Opinion polls were still in their infancy at this time and were a crude measurement of overall opinion, and yet these few examples demonstrate, at the very least, an undercurrent

of opinion sympathetic to state-imposed limitations on individual rights. Toronto Daily Star, 16 April 1946; Canadian Institute of Public Opinion/Gallup. 1949. *Canadian Gallup Poll 191*. Poll retrieved 1 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research; Axelrod, Paul. 1982. *Scholars and Dollars: Politics, Economics and the Universities of Ontario, 1945-1980*. Toronto: University of Toronto Press.

[148] Canadian Institute of Public Opinion/Gallup. 1955. *Canadian Gallup Poll 243*. Poll retrieved 1 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.

[149] Canadian Institute of Public Opinion/Gallup. 1960. *Canadian Gallup Poll 281*. Poll retrieved 1 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.

[150] Canadian Institute of Public Opinion/Gallup. 1968. *Canadian Gallup Poll 331*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.

[151] Canadian Institute of Public Opinion/Gallup. 1962. *Canadian Gallup Poll 298*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research; Canadian Institute of Public Opinion/Gallup. 1965. *Canadian Gallup Poll 312, Elections/Life*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research; Canadian Institute of Public Opinion/Gallup. 1972. *Canadian Gallup Poll 355*. Poll retrieved 2 November 2011, from Carleton Data Centre/Roper Center for Public Opinion Research.

[152] York University. 1977. *Social Change in Canada, 1977*. Poll retrieved 5 November 2011, from the Canadian Opinion Research Archive/Queens University.

[153] Decima Research. 1981. *Decima Quarterly 8, December 1981*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University.

[154] Ipsos-Reid. 1991. *National Angus Reid Poll, July 1991 [Canada]*. Poll retrieved 5 November 2011, from the Canadian Opinion Research Archive/Queens University.

[155] GPC Research/CORA. 2003. *Listening to Canadians, Fall 2003a*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University.

[156] Compass/National Post/Global Television. 2005. *Same-sex: Public Embraces Gay Rights, Opposes Gay Marriage, Advocates National Referendum*. Poll retrieved 6 November 2011, from http://www.compass.ca.

[157] Environics Research/CORA. 2010. *Environics Focus Canada 2010*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University; Citizen Society Research Lab/Lethbridge College. 2011. *Albertans' Opinion Structure on Six Policy Issues*. Poll retrieved 10 November 2011, from http://www.lethbridgecollege.ca/about-us/applied-research-innovation/citizen-society-research-lab.

[158] Ibid.

[159] Angus Reid Public Opinion. 2010. *Most Canadians Unaware of Lack of Restrictions on Abortions*. Poll retrieved 12 November 2011, from http://www.visioncritical.com/category/global-opinions-and-trends.

[160] Angus Reid Public Opinion. 2011. *Canadians Remain Divided on How to Deal with Prostitution*. Poll retrieved 12 November 2011, from http://www.angus-reid.com/country/canada/; Angus Reid Public Opinion. 2010. *Majority of Canadians Support Legalizing Euthanasia*. Poll retrieved 12 November, 2011, from http://www.angus-reid.com/country/canada/. Regarding Canadians' attitudes toward euthanasia, from this 2010 poll, 36 per cent agreed that it should be permissible for parents to euthanize children with a severe form of a condition, such as cerebral palsy.

[161] Angus Reid Public Opinion. 2010. *Gender Equality Still Elusive in Four Developed Nations*. Poll retrieved 12 November 2011, from http://www.visioncritical.com/wp-content/uploads/2010/04/2010.04.19_Gender.pdf.

[162] Ibid.

[163] Environics Research/CORA. 2000. *Environics Focus Canada 2000*. Poll retrieved 10 November 2011, from the Canadian Opinion Research Archive/Queens University.

[164] Ipsos-Reid. 2011. *Three Quarters (74%) Believe Canadian Society Less Tolerant of Others Since 9/11 Terrorist Attacks*. Poll retrieved 10 November 2011, from http://www.ipsos-na.com/news-polls/.

[165] Ibid.

[166] For instance, in 2008 through news articles and editorials there was a debate as to whether the Charter of Rights and Freedoms should be applicable to foreign prisoners under Canadian control in Afghanistan. No author. "The Charter's breaking point." The Globe and Mail, 29 January 2008, A16; Daniel Leblanc. "Tories, Liberals act on new security legislation." The Globe and Mail, 5 February 2008, A08; Paul Koring. "Charter covers prisoners, court told." The Globe and Mail, 26 January, 2008, A17.

[167] e.g., Margaret Wente. "Free speech has to be for everyone." The Globe and Mail, 12 February 2008, A21; No author. "Freedom of speech." Calgary Herald, 14 October 2010, A24.
[168] This survey is based on Globe and Mail articles from 2008 and articles from the Canadian Newsstand database from 2011.
[169] No author. "Smoking neighbour human-rights case moves forward in B.C." Alberni Valley Times, 12 August, 2011, A5; Mark Weisleder. "Pot-smoking tenant may be hard to evict." Toronto Star, 2 December 2011.
[170] Evan Duggan. "Gay renters face discrimination." Vancouver Sun, 27 August 2011, A6; No author. "Adult-only provision shouldn't be in declaration." Toronto Star, 3 December 2011, H14.
[171] Robert Hiltz, "Parents fight for soldiers' death benefits." The Gazette, 2 December 2011, A2; Murray Brewster. "More single soldiers' families allege death-benefit discrimination." The Globe and Mail, 1 December 2011.
[172] No author. "Special protection for gay people rejected by former Conservative MP." Daily Bulletin, 13 May 2011, 15.
[173] No author. "What's 'normal' in matters of sex, anyway?" Times Colonist, 13 February 2011, D2.
[174] Patrick Brethour. "Olympic dreams of female ski jumpers take flight." The Globe and Mail, 7 January 2008, A1; Matthew Sekeres. "Quoth the Eagle: Female jumpers not ready to soar." The Globe and Mail, 18 January 2008, A3.
[175] No author. "She's just not the right 'fit' for us." The Gazette, 21 May 2011, F17.
[176] Kirk Makin. "He did laps at 110 km/h to prove turban held tight." The Globe and Mail, 15 February 2008, A01; Gary Mason. "Hard hats and worker safety should trump turbans in sawmill." The Globe and Mail, 3 April 2008, A08; Neal Hall. "Mental health questions discriminatory." The Vancouver Sun, 19 July 2011, A1; No author. "Men-only gay bar settles complaint with woman." The Globe and Mail, 30 April 2008, A08; No author. "I shouldn't have to fight for my education, says teen with Tourette's syndrome." Toronto Star, 11 December 2011; No author. "Father of diabetic boy files rights complaint." Times – Colonist, 10 August 2011, A4; Mona Mettei. "B.C. high school volleyball politics spur human-rights complaint." The Vancouver Sun, 10 December 2011, A13; No author. "New Premier may rethink parent rights." National Post, 6 October 2011; Kirk Makin. "Racial taunts cost Mounties $500,000." The Globe and Mail, 17 April 2008, A01; No author. "Second police officer files complaint against Oak Bay department." The Vancouver Sun, 4 March 2011, A4; Chris Oke. "Supreme Court upholds human rights ruling." Whitehorse Star, 5 December 2011, 5; No author. "Woman denies she has health issues, continues fight against CN dismissal." Edmonton Journal, 27 February 2011, A5.
[177] Karen Howlett. "Natives halt talks over mineral rights." The Globe and Mail, 19 March 2008, A04.
[178] Joyce Crone, "Enough is enough." Waterloo Region Record, 2 December 2011; In another letter to the editor, the author argues that water is a human right that the government has an obligation to protect. No author. "The rights to our water." This Week, 28 April 2011.
[179] Theresa Boyle. "Genetic discrimination by insurers under debate." Toronto Star, 18 May 2011, A4; Carly Weeks. "Health Insurance and 'Genetic Discrimination': Are Rules Needed?" The Globe and Mail, 1 January 2012.
[180] At the same time, the media has also been reported that new internet technologies led to a rise in web-based hate activity in 2011. Michael Geist. "Is Internet connectivity a human right?" Toronto Star, 19 June 2011, A13; Vinton Cerf. "Internet access is not a human right." The New York Times, 3 January 2012; No author. "Web-based hate activity on the rise." The Gazette, 12 April 2011, A6.
[181] No author. "$30,000 awarded in texting case." The Vancouver Sun, 18 February 2011, A6.
[182] Editorials have come out in favour and against Canada's human rights commissions. e.g., Bernie Farber. "In defence of our human rights defenders." The Ottawa Citizen, 1 November 2011, A13; Jason Fekete. "Wildrose preps policy at annual convention." Calgary Herald, 26 June 2011, A4.
[183] Rex Murphy. "Vivre le Canada libre." The Globe and Mail, 12 April 2008, R07; No author. "Rights in the real world." Wainwright Star, 25 January 2011, 1.
[184] Two male co-workers accused Willow of having sexual relations with a female student. She faced a police investigation, underwent additional scrutiny by the school principal and was stripped of her extra-curricular duties despite no evidence of wrongdoing. "A 'teachable moment': Human rights case underlines homophobia in schools." 2006. Egale Canada. Retrieved 3 January 2012, from http://www.egale.ca/index.asp?lang=E&menu=1&item=1321.

[185] "EGALE and GALE BC celebrate safe schools victory: Final victory for bullied student sends message to schools across Canada." 2005. Egale Canada. Retrieved 3 January 2012, from http://www.egale.ca/index.asp?lang=E&menu=1&item=1179.
[186] "About EGALE." 2011. Egale Canada. Retrieved 3 January 2012, from http://www.egale.ca/index.asp?lang=E&menu=1&item=1152.
[187] "Support the Secwepemec Defenders." 2005. Ontario Coalition Against Poverty. Retrieved 3 January 2012, from http://ocap.ca/node/701.
[188] "Victory at Everest! Disabled Activist Receives Public Apology for Discrimination." 2008. Ontario Coalition Against Poverty. Retrieved 3 January 2012, from http://ocap.ca/node/1259.
[189] "The United Nations Declaration on the Rights of Indigenous Peoples: What It Says and What It Means for First Nations in Canada." 2007. Assembly of First Nations. Retrieved 3 January 2012, from http://www.afn.ca/uploads/files/07-12-4_un_declaration_flyer_fe.pdf.
[190] "Assembly of First Nations, Amnesty International and Council of Canadians urge political leaders to recognize the human right to water." 2011. Assembly of First Nations. Retrieved 3 January 2012, from http://www.afn.ca/index.php/en/news-media/latest-news/assembly-of-first-nations-amnesty-international-and-council-of-canadia.
[191] "Filipinos Rally Against Deportations of LCP Workers." 2006. Ontario Coalition Against Poverty. Retrieved 3 January 2012, from http://ocap.ca/node/535; "Solidarity Across Borders: Struggling For Justice And Dignity For Migrants And Refugees." 2004. Ontario Coalition Against Poverty. Retrieved 3 January 2012, from http://ocap.ca/node/606.
[192] "Anniversary of the Universal Declaration of Human Rights." 2002. Vancuover Rape Relief & Women's Shelter. Retrieved 3 January 2012, from http://rapereliefshelter.bc.ca/learn/news/anniversary-universal-declaration-human-rights.
[193] "Women of the world, unite... with LGBT people." 2006. Egale Canada. Retrieved 3 January 3 2012, from http://www.egale.ca/index.asp?lang=E&menu=1&item=1300.
[194] "Background on Nixon v Vancouver Rape Relief." 2005. Egale Canada. Retrieved 3 January 2012, from http://www.egale.ca/index.asp?lang=E&menu=1&item=1147.
[195] "B.C. Rights Case Asks: What is a Woman?" 2001. Vancouver Rape Relief & Women's Shelter. Retrieved 3 January 2012, from http://rapereliefshelter.bc.ca/learn/news/bc-rights-case-asks-what-woman.
[196] "Duelling Rights." 2005. Vancouver Rape Relief & Women's Shelter. Retrieved 3 January 2012, from http://rapereliefshelter.bc.ca/learn/resources/duelling-rights.
[197] Hunt, Lynn. 2007. *Inventing Human Rights: A History*. New York: WW Norton & Company.
[198] Ibid.
[199] In retrospect, Lester B. Pearson's warning to the federal cabinet in 1948 appears prescient: "If we vote for the declaration, some private member might introduce a resolution incorporating the text or expressing approval of the declaration which might put every Member of Parliament in the position of having to take a stand on every Article in the declaration." As quoted in: MacLennan, Christopher. 2003. *Toward the Charter: Canadians and the Demand for a National Bill of Rights, 1929-1960*. Montreal: McGill-Queen's University Press.